

By: Wentworth

S.B. No. 1706

A BILL TO BE ENTITLED

AN ACT

relating to the authorization of airport authorities and the issuance of bonds and exercise of eminent domain by the authorities.

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

SECTION 1. Title 3, Transportation Code, is amended by adding Chapter 27 to read as follows:

CHAPTER 27. AIRPORT AUTHORITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 27.001. LEGISLATIVE DECLARATION. (a) The economic well-being of the state and the general welfare of its residents require adequate, safe, secure, and efficient aviation facilities at a reasonable cost.

(b) The purpose of this chapter is to authorize the creation by the state, counties, and municipalities, through their independent or joint action, airport authorities, corporate and politic, constituting political subdivisions of the state, for the purpose of:

(1) acquiring and improving airports, heliports, air navigation facilities, and related facilities;

(2) financing the cost of the activities listed under Subdivision (1) by the issuance of bonds or other obligations of an authority payable from the income of the authority and otherwise secured to the extent permitted by law without the incurrence of

1 debt by the state or by a political subdivision; and

2 (3) promoting and facilitating transportation by air
3 from or to points located within the state, to the benefit and
4 general welfare of the state, including its political subdivisions
5 and inhabitants.

6 Sec. 27.002. DEFINITIONS. In this chapter:

7 (1) "Aircraft" means a contrivance invented, used, or
8 designed for navigation of or flight in the air, except a parachute
9 or other contrivance designed for use primarily as safety
10 equipment.

11 (2) "Air navigation facility" means a facility used
12 in, available for use in, or designed for use in aid of air
13 navigation, including a structure, mechanism, light, beacon,
14 marker, communicating system, or other instrumentality or device
15 used or useful as an aid or constituting an advantage or convenience
16 to the safe taking-off, navigation, and landing of aircraft, or the
17 safe and efficient operation or maintenance of an airport or
18 heliport, including any combination of facilities listed above.

19 (3) "Airport" means an area of land or water that is
20 used, or intended for use, for the landing, taking-off, storage,
21 parking, or dispersal of aircraft, including:

22 (A) any appurtenant areas that are used or
23 intended for use for airport buildings, facilities, or
24 rights-of-way; and

25 (B) airport buildings, structures, and
26 facilities located on the area of land or water.

27 (4) "Airport building" means a building used or to be

1 used in connection with:

2 (A) the construction, enlargement, development,
3 maintenance, or operation of an airport or heliport; or

4 (B) the exercise of any power of the authority.

5 (5) "Airport facility" means a building, structure,
6 land, right-of-way, equipment, or instrumentality used or to be
7 used in connection with the construction, enlargement,
8 development, maintenance, or operation of an airport or heliport.

9 (6) "Airport hazard" means a structure, object of
10 natural growth, or use of land that:

11 (A) obstructs the airspace required for the
12 flight of aircraft in landing or taking off at an airport or
13 heliport; or

14 (B) is otherwise hazardous to the flight of
15 aircraft in landing or taking off at an airport or heliport.

16 (7) "Authority" means a public corporation organized
17 under this chapter.

18 (8) "Board" means the board of directors of an
19 authority.

20 (9) "Bond" means a bond authorized to be issued under
21 this chapter.

22 (10) "Coupon" means an interest coupon evidencing an
23 installment of interest payable with respect to a bond.

24 (11) "Director" means a member of the board of
25 directors of an authority.

26 (12) "Heliport" means an airport designed primarily
27 for use by helicopters.

1 (13) "Indenture" means a mortgage, indenture of
2 mortgage, deed of trust, trust agreement, or trust indenture
3 executed by an authority as security for bonds.

4 [Sections 27.003-27.030 reserved for expansion]

5 SUBCHAPTER B. INCORPORATION AND ADMINISTRATION OF AUTHORITY

6 Sec. 27.031. INCORPORATION. (a) An authority may be
7 organized as a public corporation under this chapter.

8 (b) At least three natural persons shall file with the
9 governing body of one or more counties or municipalities an
10 application in writing for permission to incorporate a public
11 corporation under this chapter and shall attach to the application
12 a proposed form of articles of incorporation for the corporation.

13 (c) If each governing body with which the application is
14 filed adopts a resolution approving the form of the articles of
15 incorporation and authorizing the formation of a public
16 corporation, the applicants under Subsection (b) become the
17 incorporators of and shall incorporate the authority as a public
18 corporation under this chapter using the form of the articles
19 approved.

20 Sec. 27.032. ADDITIONAL COUNTIES OR MUNICIPALITIES. An
21 additional county or municipality may become part of an authority
22 if each additional county or municipality and each county or
23 municipality in the authority adopts a resolution consenting to the
24 inclusion of the additional county or municipality in the
25 authority.

26 Sec. 27.033. INCLUSION IN AUTHORITY. On the inclusion of a
27 county or municipality in an authority, either initially or as an

1 additional member, all rights, contracts, obligations, and
2 property, both real and personal, of a municipality or county used
3 for or in relation to transportation by air shall vest in the
4 authority created under this subchapter unless otherwise specified
5 by the resolution including the municipality or county in the
6 authority.

7 Sec. 27.034. STATE JOINING AN AIRPORT AUTHORITY. The
8 governor, on behalf of the state, may authorize the state to join in
9 the creation of an authority under this subchapter or to join an
10 existing authority created under this subchapter.

11 Sec. 27.035. WITHDRAWAL FROM AUTHORITY. (a) After the
12 organization of an airport authority by more than one governmental
13 entity, a county or municipality in an authority may withdraw from
14 the authority by resolution of the commissioners court of the
15 county or governing body of the municipality.

16 (b) A withdrawing county or municipality may not claim or
17 remove an asset of the authority.

18 Sec. 27.036. CONTENTS OF CERTIFICATE OF INCORPORATION. The
19 certificate of incorporation of an authority shall state:

20 (1) the name and county of residence of each person
21 forming the authority;

22 (2) the name of the authority which must include the
23 words "airport authority";

24 (3) the duration of the authority or if the duration is
25 perpetual, the fact that the authority is of perpetual duration;

26 (4) the names of the governmental entities in the
27 authority and the date on which the:

1 (A) governing body of the county or municipality
2 adopted the resolution authorizing the incorporation of the
3 authority or consenting to the inclusion of the county or
4 authority; or

5 (B) governor authorized the state to join in the
6 creation of an authority or an existing authority;

7 (5) the proposed location in this state of the
8 principal office of the authority; and

9 (6) any other matters relating to the authority that
10 the incorporators choose to insert and that are not inconsistent
11 with this chapter or the laws of this state.

12 Sec. 27.037. INCORPORATION; EXECUTION AND FILING OF
13 ARTICLES. (a) The articles of incorporation of an authority shall:

14 (1) be signed and acknowledged by the incorporators;
15 and

16 (2) have attached a certified copy of each of the
17 resolutions provided for in Section 27.031.

18 (b) The articles of incorporation of an authority and the
19 documents required to be attached under Subsection (a) shall be
20 filed with the secretary of state.

21 (c) When a certificate of incorporation is issued by the
22 secretary of state after the filing of the articles and attached
23 documents, the authority referred to in the certificate shall:

24 (1) come into existence;

25 (2) constitute a public corporation under the name
26 listed in the certificate; and

27 (3) have all the rights and powers given to

1 authorities under this chapter.

2 Sec. 27.038. BOARD OF DIRECTORS. (a) The governing body of
3 an authority is a board with at least five but no more than nine
4 members appointed as follows:

5 (1) if the state alone authorizes an authority, the
6 members shall be elected by the governor, the lieutenant governor,
7 and the speaker of the house of representatives with the total
8 number of members to be set out in the articles of incorporation of
9 the authority;

10 (2) if the sole authorizing governmental entity is a
11 county, the commissioners court of the county shall elect the
12 members with the number of members to be set out in the articles of
13 incorporation of the authority; and

14 (3) in all other cases:

15 (A) one member shall be elected by each governing
16 body of an authorizing governmental entity;

17 (B) one member shall be elected by the
18 commissioners court of the county in which the principal office of
19 the authority is located, if the county is not an authorizing
20 governmental entity; and

21 (C) one additional member shall be elected by the
22 governing bodies of each authorizing governmental entity and the
23 commissioners court of the county in which the principal office of
24 the authority is located.

25 (b) Each member elected by a governing body of an
26 authorizing governmental entity must be a resident of the
27 authorizing governmental entity. The additional member elected

1 under Subsection (a)(3)(C) may be a resident of any county electing
2 the member.

3 (c) Other than the additional member elected under
4 Subsection (a)(3)(C), each authorizing governmental entity may
5 elect the same number of members as any other authorizing
6 governmental entity.

7 (d) A board member is eligible for re-election.

8 (e) If the state joins in the creation of an airport
9 authority under this subchapter or joins an existing airport
10 authority created under this subchapter, the state is entitled to
11 the number of board members agreed on by the authorizing
12 governmental entities and the state, but is entitled to at least one
13 board member. A board member representing the state shall be
14 appointed by the governor.

15 (f) The board may employ and set the compensation of
16 necessary personnel.

17 Sec. 27.039. VACANCY; IMPEACHMENT. (a) Except as provided
18 by Subsection (b), if a board member resigns, dies, or becomes
19 incapable or ineligible to act as a board member, a successor to
20 serve the unexpired portion of the board member's term shall be
21 elected in the same manner provided by Section 27.038 as the board
22 member whose unexpired term the successor is filling.

23 (b) If a vacancy in the office of the additional member
24 elected under Section 27.038(a)(3)(C) continues for more than 30
25 days, the governor shall, on the request of any governmental entity
26 that elected the member, appoint a successor.

27 (c) A board member may be impeached and removed from office.

1 Sec. 27.040. ELIGIBILITY. An officer of the state, a
2 county, or a municipality is not eligible to serve as a board
3 member.

4 Sec. 27.041. TERMS. (a) The term of office of a board
5 member shall be set out in the articles of incorporation of an
6 authority.

7 (b) Board members serve staggered terms so that the term of
8 at least one member expires each year.

9 Sec. 27.042. QUORUM. (a) Except as provided by Subsection
10 (b), a majority of the board members constitutes a quorum for the
11 transaction of business.

12 (b) A meeting of a board may be adjourned by a majority of
13 the board members present or may be adjourned by a single board
14 member if the member is the only board member present at the
15 meeting.

16 (c) A vacancy in the board shall not impair the right of a
17 quorum to exercise all the powers and duties of an authority.

18 Sec. 27.043. MEETINGS. (a) A board shall hold regular
19 monthly meetings and any other meeting as provided for in the bylaws
20 of the authority.

21 (b) A board may hold a special meeting at the call of the
22 chair of the authority or two board members.

23 (c) Any matter on which the board is authorized to act may be
24 acted upon at a regular or special meeting.

25 (d) At the request of a board member, the vote on a question
26 before a board shall be taken by yeas and nays and entered upon the
27 record. All proceedings of a board shall be reduced to writing by

1 the secretary of the authority and open to board members and to the
2 public at all times. Copies of the proceedings, when certified by
3 the secretary of an authority under its seal, are admissible in a
4 court as evidence of the matters certified in the proceedings.

5 Sec. 27.044. COMPENSATION. A board member is not entitled
6 to receive compensation but is entitled to reimbursement for actual
7 and necessary expenses.

8 Sec. 27.045. OFFICERS. (a) Officers of the board consist
9 of a chair, vice chair, secretary, and any other officer the board
10 considers necessary.

11 (b) The board shall elect from the members of the board a
12 chair, vice chair, and secretary for a term of one year.

13 (c) The treasurer and any other officers a board considers
14 necessary need not be members of the board and shall be elected by
15 the board for terms determined by the board.

16 (d) The offices of secretary and treasurer may be held by
17 the same person.

18 Sec. 27.046. IMMUNITY. An action or suit may not be brought
19 or maintained against an authority or a board member for or on
20 account of the negligence of an authority, a board member, an agent
21 of an authority, or an employee of an authority relating to the
22 construction, maintenance, operation, superintendence, or
23 management of an airport, heliport, or other facility owned or
24 controlled by an authority.

25 Sec. 27.047. TAX EXEMPTION; BONDS, PROPERTY, INCOME. (a)
26 Bonds issued by an authority and the income on the bonds are exempt
27 from all state taxation.

1 (b) All property and income of an authority are exempt from
2 all state, county, municipal, and other local taxation.

3 (c) Subsection (b) does not exempt concessionaires,
4 licensees, tenants, operators, or lessees of an authority from the
5 payment of any taxes, including licenses or privilege taxes levied
6 by the state, a county, or a municipality.

7 Sec. 27.048. TAX EXEMPTION; ACCESS TO AIRPORTS. A county or
8 municipality may not require the payment of any tax or privilege
9 license from a person, firm, or corporation for the reasonable use
10 of public streets, roads, or highways leading to or from an airport,
11 heliport, or aircraft landing area owned or operated by or under the
12 jurisdiction of an authority.

13 Sec. 27.049. CONTRACT EXEMPTION. An authority is exempt
14 from a law relating to a state purchasing contract or the
15 advertising and award of a construction contract, except that an
16 authority is not exempt from surety bond requirements for the
17 contracts.

18 Sec. 27.050. ZONING. (a) An authority is exempt from
19 zoning laws, ordinances, and regulations.

20 (b) An authority has the same zoning powers with respect to
21 the zoning of an airport in an unincorporated area owned or operated
22 by the authority and the zoning of the unincorporated area lying
23 within two miles of the boundaries of the airport as a municipality
24 that owns or operates an airport.

25 Sec. 27.051. GENERAL POWERS. An authority may:

26 (1) have succession by its corporate name for the
27 duration of time specified in the articles of incorporation;

1 (2) sue and be sued in its own name in civil suits and
2 actions, except actions in tort against the authority;

3 (3) adopt and make use of a corporate seal;

4 (4) adopt and alter bylaws for the regulation and
5 conduct of its affairs and business;

6 (5) acquire, receive, take, and hold, by purchase,
7 gift, lease, devise, or other means, property, regardless of
8 whether in one or more counties or within or outside the corporate
9 limits of an authorizing governmental entity, and manage the
10 property, including developing undeveloped property owned, leased,
11 or controlled by the authority;

12 (6) execute a contract or other instrument;

13 (7) enter on land, water, and premises for the
14 purposes of making surveys, soundings, and examinations;

15 (8) plan, establish, develop, acquire, construct,
16 enlarge, improve, maintain, equip, operate, regulate, and protect
17 an airport and air navigation facility, including the:

18 (A) acquisition, construction, installation,
19 equipment, maintenance, and operation at, in connection with, or in
20 furtherance of the use at an airport of sanitary and storm sewage
21 systems and water, electric, and gas systems, buildings, hangars,
22 and other facilities for:

23 (i) airlines, U.S. military aircraft, and
24 general aviation aircraft; or

25 (ii) the comfort, use, and accommodation of
26 air travelers; and

27 (B) purchase and sale of supplies, goods, and

1 commodities incident to the operation of an airport property;

2 (9) construct, acquire, establish, improve, extend,
3 enlarge, reconstruct, equip, maintain, repair, and operate a
4 heliport, an aerial aircraft landing, loading, or storage area, and
5 a transportation terminal;

6 (10) construct, acquire, establish, improve, extend,
7 enlarge, reconstruct, equip, maintain, and repair a building,
8 structure, or facility that is suitable for use as a manufacturing
9 plant, industrial plant, retail shopping area, park, exhibit, or
10 for the conduct of lawful business at, on, or adjacent to an
11 airport, heliport, or aircraft landing area owned or operated by
12 the authority;

13 (11) lease a building, structure, or facility
14 described in Subdivision (10) to a tenant under terms approved by
15 the authority;

16 (12) for compensation, furnish or supply on an
17 airport, heliport, or aircraft landing area owned or operated by or
18 under the jurisdiction of the authority, to persons and aircraft,
19 goods, commodities, area facilities, and services convenient or
20 useful to the owners, operators, and users of aircraft and to
21 persons at the airport, heliport, or aircraft landing area,
22 including food, lodging, shelter, drinks, confections, reading
23 matter, oil, gasoline, jet fuel, motors, engines, aircraft,
24 aircraft parts and equipment, space in buildings, space for
25 buildings and structures, and the services of mechanics and
26 instructors;

27 (13) confer on an individual, firm, corporation, or

1 company, for compensation, the privilege or concession of supplying
2 on an airport, heliport, or aircraft landing area owned or operated
3 by or under the jurisdiction of the authority, all of the items to
4 be furnished or supplied under Subdivision (12);

5 (14) acquire, including by eminent domain, establish,
6 construct, expand, own, control, equip, improve, maintain,
7 operate, and regulate a satellite airport or landing field for the
8 use of aircraft in the state;

9 (15) acquire, including by purchase, gift, devise,
10 lease, or eminent domain proceedings, an existing airport and air
11 navigation facility with the consent of the county, municipality,
12 or public agency of the state that owns or controls the airport and
13 air navigation facility;

14 (16) issue interest-bearing bonds payable from the
15 limited sources available under this chapter;

16 (17) pledge for payment of bonds any revenues and
17 funds from which the bonds are made payable;

18 (18) enter into a contract, lease, or agreement
19 incidental to or necessary for the accomplishment of any purpose
20 for which the authority was organized;

21 (19) exercise the power of eminent domain with respect
22 to property, including airspace, air navigation easements,
23 structures, obstructions to flight, and property already devoted to
24 public use that reasonably may be necessary for the construction,
25 extension, maintenance, operation, protection, enlargement,
26 improvement, or preservation of an airport or airport facility or
27 sanitary or storm sewage systems water, electric, and gas systems

1 on, adjacent to, or in connection with or for the furtherance of the
2 use of an airport, heliport, aircraft landing area, or other
3 property owned by or operated by the authority;

4 (20) appoint, employ, contract with, and compensate
5 officers, employees, and agents, including engineers, security
6 officers and guards, attorneys, consultants, fiscal advisers, and
7 other employees the authority may require;

8 (21) fix, establish, collect, and alter landing fees,
9 tolls, rents, and other charges for the use of an airport, heliport,
10 landing area, building, structure, facility, or other property
11 owned or controlled by the authority;

12 (22) make and enforce rules governing the use of an
13 airport, heliport, landing area, or airport facility owned or
14 controlled by the authority;

15 (23) provide for insurance, including use and
16 occupancy insurance, as determined by the board;

17 (24) invest funds of the authority that the board
18 determines are not presently needed for its corporate purposes in:

19 (A) a direct general obligation of the United
20 States;

21 (B) an obligation that is unconditionally
22 guaranteed as to both principal and interest by the United States;

23 or

24 (C) bonds of the state, a county, or
25 municipality;

26 (25) contract with the state, a county, a
27 municipality, a public corporation, an agency, a department, or

1 other political subdivision of this state if the board determines
2 that the contract accomplishes the purposes for which the authority
3 was established;

4 (26) sell and convey property that is obsolete, worn
5 out, or no longer needed or useful;

6 (27) receive and accept for the construction,
7 extension, improvement, maintenance, or operation of an airport,
8 heliport, or airport facility money, property, labor, or other
9 thing of value from any source, including grants from the United
10 States, the state, or any political subdivision of the state;

11 (28) purchase services, equipment, and supplies
12 necessary or convenient for the exercise of any power of the
13 authority;

14 (29) enter into a management agreement with a county
15 or municipality for the management by the authority of an airport,
16 heliport, air navigation facility, or other facility useful to the
17 authority; and

18 (30) take any other action necessary or convenient to
19 carry out the purposes of this chapter or the exercise of a power
20 granted under this chapter.

21 Sec. 27.052. LIMITATION ON POWER. An authority may not
22 acquire by eminent domain real property or rights owned or held by a
23 railroad or utility.

24 Sec. 27.053. PEACE OFFICERS. (a) The authority may employ
25 security officers who have the power and authority of a peace
26 officer in this state.

27 (b) A court of a municipality that is an authorizing

1 governmental entity has jurisdiction over a misdemeanor committed
2 on the property of an authority.

3 (c) A county that is an authorizing governmental entity has
4 jurisdiction over a misdemeanor committed on the property of an
5 authority if there is no authorizing municipality.

6 Sec. 27.054. FUNDING. (a) An authority is authorized to
7 accept, receive, disburse, and expend federal money, state money,
8 and any other money made available by grant or loan to accomplish a
9 purpose of this chapter.

10 (b) Federal money accepted under this section shall be
11 accepted and expended by an authority on terms prescribed by the
12 United States that are not inconsistent with the laws of this state.

13 Sec. 27.055. ASSISTANCE BY STATE OR LOCAL ENTITIES. A
14 county, municipality, or other political subdivision of the state,
15 including a public corporation, may, with or without consideration:

16 (1) lend or donate money to an authority;

17 (2) provide that all or part of the taxes or funds
18 available to it or required by law to be used by it for airport
19 purposes shall be transferred or paid directly to an authority;

20 (3) cause water, sewer, or drainage facilities or any
21 other facilities that it is empowered to provide to be furnished
22 adjacent to or in connection with an airport, heliport, or air
23 navigation facility;

24 (4) donate, sell, convey, transfer, or lease to an
25 authority any land, property, franchise, grant, easement, license,
26 or lease that it owns;

27 (5) donate, sell, convey, or lease an airport, airport

1 property, heliport, heliport property, or any interest in an
2 airport, airport property, heliport, or heliport property owned by
3 it to an authority;

4 (6) donate, transfer, assign, sell, or convey to an
5 authority any right, title, or interest that it has in a lease,
6 contract, agreement, license, or property;

7 (7) furnish, dedicate, close, pave, repair, install,
8 grade, regrade, plan, or replan streets, roads, roadways, and
9 walks:

10 (A) from established streets or roads to an
11 airport or air navigation facility; or

12 (B) abutting or adjacent to an airport or air
13 navigation facility;

14 (8) take any other action that is necessary or
15 convenient to aid and cooperate with an authority in the planning,
16 undertaking, construction, or operation of an airport, heliport, or
17 air navigation facility; and

18 (9) furnish, at the request of an authority, fire and
19 air crash equipment and personnel to properly operate the equipment
20 at an airport, heliport, or aircraft landing area owned, operated,
21 or under the jurisdiction of an authority or train authority
22 personnel in fire, crash, and rescue.

23 Sec. 27.056. DISSOLUTION. (a) If an authority does not
24 have outstanding bonds, the authority may be dissolved on the
25 filing of articles of dissolution with the secretary of state that
26 shall be sworn to and subscribed by each member of the authority.

27 (b) On issue of a certificate of dissolution by the

1 secretary of state, an authority ceases to exist. On dissolution,
2 all rights, titles, and interests of the authority in property:

3 (1) vest in the authorizing governmental entities as
4 provided by the articles of incorporation; or

5 (2) if not provided for in the articles of
6 incorporation, vest in the authorizing governmental entities
7 equally.

8 Sec. 27.057. CONTRACT VALIDATION. A contract entered into
9 or a legal action instituted by a de facto or de jure authority is
10 validated.

11 [Sections 27.058-27.100 reserved for expansion]

12 SUBCHAPTER C. BONDS

13 Sec. 27.101. GENERAL PROVISIONS. (a) An authority may
14 issue interest-bearing revenue bonds for any of its corporate
15 purposes.

16 (b) The principal of and the interest on bonds is payable
17 solely from and may be secured by a pledge of the revenues derived
18 by an authority from the operation of authority airports,
19 heliports, facilities, and other property.

20 (c) Bonds issued or contracts entered into by an authority
21 under this chapter do not create debt of the state, a county, or a
22 municipality and do not create a charge against the credit or taxing
23 powers of the state, a county, or municipality.

24 Sec. 27.102. BONDS ISSUED. (a) Board proceedings shall
25 determine how bonds are issued, including the following matters:

26 (1) whether the bonds are issued at any time and from
27 time to time;

1 (2) bond form and denominations;

2 (3) bond tenor, payable in installments, and at times
3 not to exceed 40 years from the date of issue;

4 (4) place of issue; and

5 (5) rate of interest.

6 (b) A bond having a stated maturity date more than 10 years
7 after its date of issue shall be made subject to redemption at the
8 option of an authority not later than the 10th anniversary of its
9 date of issue and on any interest payment date after that time at a
10 price, after notice, on terms, in the manner provided in the board
11 proceeding that authorized the bond issuance.

12 (c) Bonds of an authority may be sold at public or private
13 sale in the manner and from time to time as may be determined by the
14 board.

15 (d) An authority may pay all reasonable expenses, premiums,
16 fees, and commissions that the board determines are necessary or
17 advantageous in connection with the authorization, sale, and
18 issuance of bonds.

19 (e) Bonds must contain a recital that the bonds are issued
20 under this chapter.

21 (f) A public hearing is not required for the issuance of
22 bonds by an authority.

23 (g) Notwithstanding the fact that they are payable solely
24 from a specified source, bonds issued under this chapter are
25 negotiable instruments within the meaning of the negotiable
26 instruments law of this state if the bonds otherwise possess all the
27 characteristics of a negotiable instrument under the law of this

1 state.

2 Sec. 27.103. NOTICE; CHALLENGES. (a) On the adoption of a
3 resolution providing for the issuance of bonds, an authority may
4 publish, once a week for two consecutive weeks, in a newspaper that
5 is distributed in the county in which the principal office of the
6 authority is located, notice in substantially the following form at
7 the end of which shall be printed the name and title of either the
8 chair or secretary of the authority:

9 "_____ , a public corporation of the State of Texas,
10 on the ____ day of _____ authorized the issuance of
11 \$_____ principal amount of revenue bonds of the
12 corporation for purposes authorized in the Act of the
13 Legislature of Texas under which the corporation was
14 organized. Any action or proceeding questioning the
15 validity of the bonds, or the pledge and any
16 instruments securing the bonds, or the proceedings
17 authorizing the bonds, must be commenced within 20
18 days after the first publication of this notice."

19 (b) An action or proceeding in a court to set aside or
20 question the proceedings for the issuance of bonds referred to in a
21 notice under Subsection (a) or to contest the validity of the bonds
22 or the validity of the pledge and any instruments made to secure the
23 bonds must be commenced before the 31st day after the date of first
24 publication of the notice.

25 (c) After the 30-day period described under Subsection (b)
26 expires:

27 (1) a right of action or defense questioning or

1 attacking the validity of the proceedings, bonds, pledge, or
2 instruments may not be asserted; and

3 (2) the validity of the proceedings, bonds, pledge, or
4 instruments are not open to question in a court on any ground.

5 Sec. 27.104. EXECUTION AND DELIVERY. (a) Bonds shall be
6 signed by the chair or vice chair and by the secretary or treasurer
7 of an authority. The signature of one of the officers whose
8 signatures will appear on the bonds may be imprinted or otherwise
9 reproduced.

10 (b) The seal of an authority shall be affixed onto the bonds
11 or a facsimile of the seal of an authority shall be imprinted or
12 otherwise reproduced on the bonds.

13 (c) Coupons shall be signed by the chair or vice chair and by
14 the secretary or treasurer of an authority. The signature of the
15 secretary or treasurer may be imprinted or otherwise reproduced.

16 (d) Delivery of bonds executed as provided under this
17 section is valid notwithstanding any changes in officers or in the
18 authority seal after the signing and sealing of the bonds.

19 Sec. 27.105. SECURITY. (a) At the discretion of an
20 authority, bonds may be issued under and secured by an indenture
21 between the authority and a trustee. A trustee may be a private
22 person or corporation, including a trust company or bank having
23 trust powers.

24 (b) In an indenture or resolution providing for the issuance
25 of bonds, the authority may:

26 (1) pledge, for payment of the principal of and the
27 interest on bonds, authority revenues;

1 (2) assign, as security for payment, a lease,
2 franchise, permit, or contract; and

3 (3) mortgage a property.

4 (c) A pledge of revenues shall be valid and binding from the
5 time it is made. Pledged revenues received after the pledge by an
6 authority immediately become subject to the lien of the pledge
7 without physical delivery or further act. The lien of the pledge is
8 valid and binding against a party having a claim of any kind against
9 the authority, regardless of whether the party has actual notice of
10 the lien, from the time a statement is filed in the office of the
11 county clerk of:

12 (1) the county in which the principal office of the
13 authority is located; or

14 (2) a county in which any part of the property, the
15 revenues from which are pledged, is located.

16 (d) A statement under Subsection (c) must contain:

17 (1) the date on which a resolution authorizing the
18 issuance of bonds was adopted by a board;

19 (2) the principal amount of bonds issued;

20 (3) a brief description of the revenues pledged; and

21 (4) a brief description of property the revenues from
22 which are pledged.

23 (e) In an indenture or resolution pledging revenues from an
24 airport, heliport, building, or facility, an authority may include
25 provisions customarily contained in instruments securing evidence
26 of indebtedness, including provisions relating to:

27 (1) the collection, segregation, and application of

1 rental or other revenue due or to become due to the authority;

2 (2) the terms to be incorporated in a lease agreement
3 pertaining to authority property;

4 (3) the maintenance and insurance of a building or
5 structure owned by the authority;

6 (4) the creation and maintenance of special funds from
7 revenue of the authority;

8 (5) the rights and remedies available in the event of
9 default to the holder of the bonds or the trustee under the
10 indenture; and

11 (6) restricting the individual rights of action of the
12 holders of the bonds and coupons.

13 (f) If an authority defaults in payment of the principal of
14 or interest on bonds or in an agreement included in an indenture
15 securing the bonds, a holder of the bonds or any of the coupons, or
16 the trustee under an indenture if authorized in the indenture:

17 (1) may enforce payment of the principal or interest
18 by civil action, mandamus, or other proceeding;

19 (2) may compel performance of a duty of the board and
20 officers of the authority; and

21 (3) shall be entitled as a matter of right and
22 regardless of the sufficiency of the security to the appointment of
23 a receiver with all the powers of a receiver for the:

24 (A) operation and maintenance of the property of
25 the authority covered by the indenture; and

26 (B) collection, segregation, and application of
27 revenues from property of the authority covered by the indenture.

1 Sec. 27.106. PROCEEDS. (a) Proceeds derived from the sale
2 of bonds may be used only to pay the cost of acquiring,
3 constructing, improving, enlarging, and equipping an airport,
4 facility, or property as specified in the proceedings in which the
5 bonds are authorized to be issued.

6 (b) Eligible costs under Subsection (a) include:

7 (1) the cost of land forming a part of an airport,
8 facility, or property;

9 (2) the cost of labor, material, and supplies used in
10 the construction, improvement, or enlargement, including
11 architects' and engineers' fees and the cost of preparing contract
12 documents and advertising for bids;

13 (3) the purchase price of and the cost of installing
14 equipment for the airport, facility, or property;

15 (4) the cost of landscaping the lands forming a part of
16 an airport, facility, or property, and of constructing roads,
17 sidewalks, curbs, gutters, utilities, and parking places in
18 connection with an airport, facility, or property;

19 (5) legal, fiscal, and recording fees and expenses
20 incurred in connection with the authorization, sale, and issuance
21 of bonds issued in connection with an airport, facility, or
22 property; and

23 (6) interest on bonds issued in connection with an
24 airport, facility, or property for a reasonable period before and
25 during the time required for the construction and equipment not to
26 exceed 18 months after the date of completion of the construction
27 and equipment.

1 (c) If any proceeds derived from the sale of bonds remain
2 undisbursed after completion of the work described under Subsection
3 (a) and payment of costs under Subsection (b), the proceeds shall be
4 used for retirement of the principal of the bonds of the same issue.

5 Sec. 27.107. REFUNDING BONDS. (a) An authority may at any
6 time and from time to time issue refunding bonds for the purpose of:

7 (1) refunding the principal of and interest on
8 outstanding bonds of the authority regardless of whether the
9 principal and interest have matured at the time of the refunding;
10 and

11 (2) paying the expenses incurred in connection with
12 the refunding and any premium necessary to be paid to redeem,
13 retire, or purchase for retirement the bonds to be refunded.

14 (b) Proceeds derived from the sale of refunding bonds may be
15 used only for the purposes for which the refunding bonds were
16 authorized to be issued.

17 (c) Refunding may be effected:

18 (1) by sale of the refunding bonds and the application
19 of the proceeds; or

20 (2) by exchange of the refunding bonds for the bonds or
21 interest coupons to be refunded, except that the holders of the
22 bonds or coupons to be refunded may not be compelled without their
23 consent to surrender their bonds or coupons for payment or exchange
24 before the date on which they may be paid or redeemed by call of the
25 authority under their respective provisions.

26 (d) This subchapter applies to refunding bonds to the extent
27 the provisions are consistent with this section.

1 (e) If an authority issues bonds for the purpose of
2 refunding the principal of and interest on any of its bonds or for
3 any other purpose for which it is authorized to issue bonds, this
4 section applies only to the portion of the combined issue
5 authorized for refunding purposes, and the rest of this subchapter
6 applies to the remaining portion of the combined issue.

7 Sec. 27.108. LOCAL GOVERNMENT INVESTMENT. A governing body
8 of a county or municipality may invest idle or surplus money held in
9 its treasury in bonds of an authority.

10 Sec. 27.109. LEGAL INVESTMENTS. (a) Bonds issued under
11 this subchapter are legal investments for executors,
12 administrators, trustees, and other fiduciaries, unless otherwise
13 directed by the court having jurisdiction of the fiduciary relation
14 or by the document that is the source of the fiduciary's authority.

15 (b) Bonds issued under this subchapter are legal
16 investments for savings banks and insurance companies organized
17 under the laws of this state.

18 SECTION 2. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2003.