

By: Estes

S.B. No. 1778

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the authority of a higher education authority or
3 nonprofit organization exercising the powers of a higher education
4 authority to acquire, construct, improve, or finance facilities.

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

6 SECTION 1. Section 53.33, Education Code, is amended to
7 read as follows:

8 Sec. 53.33. FACILITIES: CONSTRUCTION, ACQUISITION, AND
9 IMPROVEMENT [~~ETC~~]. (a) An [~~The~~] authority may acquire by purchase,
10 purchase contract, or lease, may construct, or may enlarge, extend,
11 repair, renovate, or otherwise improve educational facilities or
12 housing facilities. It may acquire land for those purposes,
13 furnish and equip the facilities, and provide by contract, lease,
14 or otherwise for the operation and maintenance of the facilities.

15 (b) Except as provided by Subsection (c), the [~~The~~]
16 facilities must [~~need not~~] be located within a a [~~the~~] city that
17 created the authority [~~limits of the city or cities~~].

18 (c) An authority may acquire or construct a facility for a
19 private institution of higher education outside the city or cities
20 that created the authority or acquire land for that purpose, or may
21 improve an existing facility located outside the city or cities
22 that created the authority for a private institution of higher
23 education, if:

24 (1) the governing body of the institution of higher

1 education formally requests the authority to acquire, construct, or
2 improve the facility on its behalf;

3 (2) the acquisition, construction, or improvement of
4 the facility is approved by official action of the governing body of
5 each county, city, and school district in which the facility or
6 proposed facility is located;

7 (3) the purpose of the facility is to provide
8 educational or housing facilities to students, faculty, or staff of
9 the institution of higher education;

10 (4) the facility is required by contract to be
11 transferred to the institution of higher education, or to a
12 nonprofit corporation incorporated by and under the exclusive
13 control of the institution acting on behalf of the institution, as
14 soon as practicable after acquisition, construction, or
15 improvement; and

16 (5) the facility and any revenue from the facility,
17 less expenses and costs approved by the institution of higher
18 education, including revenue to pay the principal of and interest
19 on bonds under this chapter, are at all times under the exclusive
20 control of and held for the exclusive benefit of the institution of
21 higher education, or of a nonprofit corporation incorporated by and
22 under the exclusive control of the institution and acting on its
23 behalf.

24 (d) If a city or cities acting under Section 53.35 authorize
25 a nonprofit corporation to exercise the powers of an authority
26 under this section, to the extent that this section conflicts with
27 the powers of the nonprofit corporation under the Texas Non-Profit

1 Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil
2 Statutes), this section controls.

3 (e) The change in law made to this section by the 78th
4 Legislature at the 2003 Regular Session relating to the power of an
5 authority to acquire, construct, or improve a facility located
6 outside the city or cities that created the authority does not
7 affect:

8 (1) the validity of powers exercised under this
9 chapter, including the issuance of bonds but not including the
10 power to improve a facility, by an authority with respect to
11 facilities acquired or constructed or land acquired under this
12 chapter before the effective date of the change in law, or for which
13 the authority has expended \$25,000 or more to acquire or construct
14 before the effective date of the change in law; or

15 (2) the acquisition, construction, or improvement of a
16 facility or the acquisition of land approved by official action of
17 the authority before March 15, 2003.

18 SECTION 2. Subchapter C, Chapter 53, Education Code, is
19 amended by adding Section 53.332 to read as follows:

20 Sec. 53.332. NOTICE TO LOCAL GOVERNMENTS OF FISCAL IMPACT
21 OF AUTHORITY ACTION. (a) An authority shall provide notice to each
22 political subdivision of this state in which the authority proposes
23 to acquire, construct, or improve a facility or to acquire land for
24 the construction of a facility.

25 (b) The notice must be delivered in writing to the presiding
26 officer of the governing body of each political subdivision not
27 later than the 30th day after the date the board of the authority

1 takes any official action relating to an action described by
2 Subsection (a).

3 (c) The notice must include at least the following
4 information:

5 (1) the nature of the official action taken by the
6 authority;

7 (2) the planned dates for acquisition, construction,
8 or improvement of the facility or for the acquisition of land for
9 construction of the facility;

10 (3) an estimate of the market value of the facility
11 when the proposed acquisition, construction, or improvement is
12 complete; and

13 (4) a statement that the facility will be exempt from
14 ad valorem taxation while owned by the authority or an institution
15 of higher education if used for educational purposes.

16 (d) If the acquisition, construction, or improvement of the
17 facility requires the approval of counties, cities, and school
18 districts under Section 53.33(c)(2), the notice must:

19 (1) include a statement that the proposed action is
20 subject to the approval of each county, city, and school district in
21 which the facility is or will be located;

22 (2) name each of those counties, cities, and school
23 districts; and

24 (3) state whether any of those entities has approved
25 the proposed action as of the date the notice is prepared.

26 (e) The authority shall provide to each political
27 subdivision receiving the notice any additional information

1 requested by any of the political subdivisions, not later than the
2 30th day after the date of the request, that relates to the
3 political subdivision's efforts to estimate the fiscal impact of
4 the proposed action of the authority on the political subdivision.

5 SECTION 3. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2003.