

1-1 By: Wentworth S.B. No. 1406  
1-2 (In the Senate - Filed March 8, 2007; March 20, 2007, read  
1-3 first time and referred to Committee on Transportation and Homeland  
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1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;  
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1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1406 By: Wentworth

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

1-10 relating to the authorization of airport authorities and the  
1-11 issuance of bonds and the exercise of eminent domain by the  
1-12 authorities.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. LEGISLATIVE DECLARATION; PURPOSE. (a) The  
1-15 economic well-being of the state and the general welfare of its  
1-16 residents require adequate, safe, secure, and efficient aviation  
1-17 facilities at a reasonable cost.

1-18 (b) The purpose of this Act is to authorize the creation by  
1-19 the state, counties, and municipalities, through their independent  
1-20 or joint action, airport authorities, corporate and politic,  
1-21 constituting political subdivisions of the state, for the purpose  
1-22 of:

1-23 (1) acquiring and improving airports, heliports, air  
1-24 navigation facilities, and related facilities;

1-25 (2) financing the cost of the activities listed under  
1-26 Subdivision (1) of this subsection by the issuance of bonds or other  
1-27 obligations of an authority payable from the income of the  
1-28 authority and otherwise secured to the extent permitted by law  
1-29 without the incurrence of debt by the state or by another political  
1-30 subdivision; and

1-31 (3) promoting and facilitating transportation by air  
1-32 from or to points located within the state, to the benefit and  
1-33 general welfare of the state, including its political subdivisions  
1-34 and inhabitants.

1-35 SECTION 2. AIRPORT AUTHORITIES. Title 3, Transportation  
1-36 Code, is amended by adding Chapter 27 to read as follows:

1-37 CHAPTER 27. AIRPORT AUTHORITIES

1-38 SUBCHAPTER A. GENERAL PROVISIONS

1-39 Sec. 27.001. DEFINITIONS. In this chapter:

1-40 (1) "Aircraft" means a contrivance invented, used, or  
1-41 designed for navigation of or flight in the air, except a parachute  
1-42 or other contrivance designed for use primarily as safety  
1-43 equipment.

1-44 (2) "Air navigation facility" means a facility used  
1-45 in, available for use in, or designed for use in aid of air  
1-46 navigation, including a structure, mechanism, light, beacon,  
1-47 marker, communicating system, or other instrumentality or device  
1-48 used or useful as an aid or constituting an advantage or convenience  
1-49 to the safe taking-off, navigation, and landing of aircraft, or the  
1-50 safe and efficient operation or maintenance of an airport,  
1-51 including any combination of facilities listed in this subdivision.

1-52 (3) "Airport" means an area of land or water that is  
1-53 used, or intended for use, for the landing, taking-off, storage,  
1-54 parking, or dispersal of aircraft, including:

1-55 (A) any appurtenant areas that are used or  
1-56 intended for use for airport buildings, facilities, or  
1-57 rights-of-way; and

1-58 (B) airport buildings, structures, and  
1-59 facilities located on the area of land or water.

1-60 (4) "Airport facility" means a building, structure,  
1-61 land, right-of-way, equipment, or instrumentality used or to be  
1-62 used in connection with the construction, enlargement,  
1-63 development, maintenance, or operation of an airport.

2-1 (5) "Authority" means a public corporation organized  
2-2 under this chapter.

2-3 (6) "Board" means the board of directors of an  
2-4 authority.

2-5 (7) "Indenture" means a mortgage, indenture of  
2-6 mortgage, deed of trust, trust agreement, or trust indenture  
2-7 executed by an authority as security for bonds.

2-8 Sec. 27.002. ASSISTANCE BY STATE OR LOCAL ENTITIES. (a) A  
2-9 county, municipality, or other political subdivision of the state,  
2-10 including a public corporation, may, with or without consideration:

2-11 (1) lend or donate money to an authority;

2-12 (2) provide that all or part of the taxes or funds  
2-13 available to the subdivision or required by law to be used by the  
2-14 subdivision for airport purposes shall be transferred or paid  
2-15 directly to an authority;

2-16 (3) cause water, sewer, or drainage facilities or any  
2-17 other facilities that the subdivision is empowered to provide to be  
2-18 furnished adjacent to or in connection with an airport or air  
2-19 navigation facility;

2-20 (4) donate, sell, convey, transfer, or lease to an  
2-21 authority any land, property, franchise, grant, easement, license,  
2-22 or lease that the subdivision owns;

2-23 (5) donate, sell, convey, or lease an airport, airport  
2-24 property, or any interest in an airport or airport property owned by  
2-25 the subdivision to an authority;

2-26 (6) donate, transfer, assign, sell, or convey to an  
2-27 authority any right, title, or interest that the subdivision has in  
2-28 a lease, contract, agreement, license, or property;

2-29 (7) furnish, dedicate, close, pave, repair, install,  
2-30 grade, regrade, plan, or replan streets, roads, roadways, and  
2-31 walks:

2-32 (A) from established streets or roads to an  
2-33 airport or air navigation facility; or

2-34 (B) abutting or adjacent to an airport or air  
2-35 navigation facility;

2-36 (8) take any other action that is necessary or  
2-37 convenient to aid and cooperate with an authority in the planning,  
2-38 undertaking, construction, or operation of an airport or air  
2-39 navigation facility; and

2-40 (9) furnish, at the request of an authority, fire and  
2-41 air crash equipment and personnel to properly operate the equipment  
2-42 at an airport or aircraft landing area owned, operated, or under the  
2-43 jurisdiction of an authority or train authority personnel in fire,  
2-44 crash, and rescue.

2-45 (b) All transfers of land, licenses, easements, or other  
2-46 property under this section are subject to the continuing right of a  
2-47 utility to maintain existing facilities in those locations and to  
2-48 be reimbursed for any required relocation, removal, or adjustment  
2-49 of those facilities.

2-50 Sec. 27.003. NATURE OF AUTHORITY. An airport authority  
2-51 created under this chapter is an airport authority under Section  
2-52 12, Article IX, Texas Constitution.

2-53 [Sections 27.004-27.050 reserved for expansion]

2-54 SUBCHAPTER B. CREATION AND EXPANSION

2-55 Sec. 27.051. INCORPORATION. (a) An authority may be  
2-56 organized as a public corporation under this chapter.

2-57 (b) At least three natural persons shall file with the  
2-58 governing body of one or more counties or municipalities an  
2-59 application in writing for permission to incorporate a public  
2-60 corporation under this chapter and shall attach to the application  
2-61 a proposed form of articles of incorporation for the corporation.

2-62 (c) If each governing body with which the application is  
2-63 filed adopts a resolution approving the form of the articles of  
2-64 incorporation and authorizing the formation of a public  
2-65 corporation, the applicants under Subsection (b) become the  
2-66 incorporators of and shall incorporate the authority as a public  
2-67 corporation under this chapter using the form of the articles  
2-68 approved.

2-69 Sec. 27.052. ADDITIONAL COUNTIES OR MUNICIPALITIES. An

3-1 additional county or municipality may become part of an authority  
 3-2 if each additional county or municipality and each county or  
 3-3 municipality in the authority adopts a resolution consenting to the  
 3-4 inclusion of the additional county or municipality in the  
 3-5 authority.

3-6 Sec. 27.053. INCLUSION IN AUTHORITY. On the inclusion of a  
 3-7 county or municipality in an authority, either initially or as an  
 3-8 additional member, all rights, contracts, obligations, and  
 3-9 property, both real and personal, of a municipality or county used  
 3-10 for or in relation to transportation by air shall vest in the  
 3-11 authority created under this subchapter unless otherwise specified  
 3-12 by the resolution including the municipality or county in the  
 3-13 authority.

3-14 Sec. 27.054. STATE JOINING AIRPORT AUTHORITY. The  
 3-15 governor, on behalf of the state, may authorize the state to join in  
 3-16 the creation of an authority under this subchapter or to join an  
 3-17 existing authority created under this subchapter.

3-18 Sec. 27.055. CONTENTS OF CERTIFICATE OF INCORPORATION. The  
 3-19 certificate of incorporation of an authority shall state:

3-20 (1) the name and county of residence of each person  
 3-21 forming the authority;

3-22 (2) the name of the authority, which must include the  
 3-23 words "airport authority";

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

3-26 (4) the names of the governmental entities in the  
 3-27 authority and the date on which the:

3-28 (A) governing body of the county or municipality  
 3-29 adopted the resolution authorizing the incorporation of the  
 3-30 authority or consented to the inclusion of the county or  
 3-31 municipality in the authority; or

3-32 (B) governor authorized the state to join in the  
 3-33 creation of the authority or the existing authority;

3-34 (5) the proposed location in this state of the  
 3-35 principal office of the authority; and

3-36 (6) any other matters relating to the authority that  
 3-37 the incorporators choose to insert and that are not inconsistent  
 3-38 with this chapter or the laws of this state.

3-39 Sec. 27.056. INCORPORATION; EXECUTION AND FILING OF  
 3-40 ARTICLES. (a) The articles of incorporation of an authority  
 3-41 shall:

3-42 (1) be signed and acknowledged by the incorporators;  
 3-43 and

3-44 (2) have attached a certified copy of each of the  
 3-45 resolutions described by Section 27.051.

3-46 (b) An authority shall file its articles of incorporation  
 3-47 with the documents required to be attached under Subsection (a),  
 3-48 with the secretary of state.

3-49 (c) When a certificate of incorporation is issued by the  
 3-50 secretary of state after the filing of the articles and attached  
 3-51 documents, the authority referred to in the certificate shall:

3-52 (1) come into existence;

3-53 (2) constitute a public corporation under the name  
 3-54 listed in the certificate; and

3-55 (3) have all the rights and powers given to an  
 3-56 authority under this chapter.

3-57 (d) The articles must include the number and terms of board  
 3-58 members. A term may not exceed two years.

3-59 [Sections 27.057-27.100 reserved for expansion]

3-60 SUBCHAPTER C. BOARD OF DIRECTORS; ADMINISTRATION

3-61 Sec. 27.101. COMPOSITION OF BOARD OF DIRECTORS. (a) The  
 3-62 governing body of an authority is a board with at least five but not  
 3-63 more than nine members appointed as follows:

3-64 (1) if the state alone authorizes an authority, the  
 3-65 members shall be elected by the governor, the lieutenant governor,  
 3-66 and the speaker of the house of representatives with the total  
 3-67 number of members set out in the articles of incorporation of the  
 3-68 authority;

3-69 (2) if the sole authorizing governmental entity is a

4-1 county, the commissioners court of the county shall appoint the  
 4-2 members with the number of members set out in the articles of  
 4-3 incorporation of the authority; and

4-4 (3) in all other cases:

4-5 (A) one member shall be appointed by each  
 4-6 governing body of an authorizing governmental entity;

4-7 (B) one member shall be appointed by the  
 4-8 commissioners court of the county in which the principal office of  
 4-9 the authority is located, if the county is not an authorizing  
 4-10 governmental entity; and

4-11 (C) one additional member shall be elected by the  
 4-12 governing bodies of each authorizing governmental entity and the  
 4-13 commissioners court of the county in which the principal office of  
 4-14 the authority is located.

4-15 (b) Each member appointed by a governing body of an  
 4-16 authorizing governmental entity must reside in the authorizing  
 4-17 governmental entity. The additional member elected under  
 4-18 Subsection (a)(3)(C) must reside in any county electing the member.

4-19 (c) Other than the additional member elected under  
 4-20 Subsection (a)(3)(C), each authorizing governmental entity may  
 4-21 appoint the same number of members as any other authorizing  
 4-22 governmental entity.

4-23 (d) If the state joins in the creation of an airport  
 4-24 authority under this chapter or joins an existing airport authority  
 4-25 created under this chapter, the state is entitled to the number of  
 4-26 board members agreed on by the authorizing governmental entities  
 4-27 and the state, but is entitled to at least one board member. The  
 4-28 governor shall appoint each board member representing the state.

4-29 Sec. 27.102. VACANCY; REMOVAL. (a) Except as provided by  
 4-30 Subsection (b), if a board member resigns, dies, or becomes  
 4-31 incapable or ineligible to act as a board member, a successor to  
 4-32 serve the unexpired portion of the board member's term shall be  
 4-33 elected in the same manner provided by Section 27.101 as the board  
 4-34 member whose unexpired term the successor is filling.

4-35 (b) If a vacancy in the office of the additional member  
 4-36 elected under Section 27.101(a)(3)(C) continues for more than 30  
 4-37 days, the governor shall, on the request of any governmental entity  
 4-38 that elected the member, appoint a successor.

4-39 (c) A board member may be removed from office.

4-40 Sec. 27.103. ELIGIBILITY. An officer of the state, a  
 4-41 county, or a municipality is not eligible to serve as a board  
 4-42 member.

4-43 Sec. 27.104. TERMS. (a) The term of office of a board  
 4-44 member is as set out in the articles of incorporation of an  
 4-45 authority.

4-46 (b) Board members serve staggered terms so that the term of  
 4-47 at least one member expires each year.

4-48 Sec. 27.105. QUORUM. (a) Except as provided by Subsection  
 4-49 (b), a majority of the board members constitutes a quorum for the  
 4-50 transaction of business.

4-51 (b) A meeting of a board may be adjourned by a majority of  
 4-52 the board members present or may be adjourned by a single board  
 4-53 member if the member is the only board member present at the  
 4-54 meeting.

4-55 (c) A vacancy on the board does not impair the right of a  
 4-56 quorum to exercise all the powers and duties of an authority.

4-57 Sec. 27.106. MEETINGS. (a) A board shall hold regular  
 4-58 monthly meetings and any other meeting as provided for in the bylaws  
 4-59 of the authority.

4-60 (b) A board may hold a special meeting at the call of the  
 4-61 chair of the authority or two board members.

4-62 (c) Any matter on which the board is authorized to act may be  
 4-63 acted upon at a regular or special meeting.

4-64 (d) At the request of a board member, the vote on a question  
 4-65 before a board shall be taken by yeas and nays and entered on the  
 4-66 record. All board proceedings shall be reduced to writing by the  
 4-67 secretary of the authority and open to board members and to the  
 4-68 public at all times. Copies of the proceedings, when certified by  
 4-69 the secretary of an authority under its seal, are admissible in a

5-1 court as evidence of the matters certified in the proceedings.

5-2 Sec. 27.107. COMPENSATION. A board member is not entitled  
5-3 to receive compensation but is entitled to reimbursement for actual  
5-4 and necessary expenses.

5-5 Sec. 27.108. OFFICERS. (a) The board shall elect from the  
5-6 board members a chair, a vice chair, a secretary, and any other  
5-7 officer the board considers necessary, for a term of one year.

5-8 (b) A treasurer or any other officer a board considers  
5-9 necessary is not required to be a board member. The officer may be  
5-10 appointed by the board for a term determined by the board.

5-11 (c) The offices of secretary and treasurer may be held by  
5-12 the same person.

5-13 [Sections 27.109-27.150 reserved for expansion]

5-14 SUBCHAPTER D. POWERS AND DUTIES

5-15 Sec. 27.151. GENERAL POWERS. An authority may:

5-16 (1) have succession by the authority's corporate name  
5-17 for the duration of time specified in the articles of  
5-18 incorporation;

5-19 (2) sue and be sued in the authority's own name in  
5-20 civil suits and actions, except actions in tort against the  
5-21 authority;

5-22 (3) adopt and make use of a corporate seal;

5-23 (4) adopt and alter bylaws for the regulation and  
5-24 conduct of the authority's affairs and business;

5-25 (5) acquire, receive, take, and hold, by purchase,  
5-26 gift, lease, devise, or other means, property, regardless of  
5-27 whether in one or more counties or within or outside the corporate  
5-28 limits of an authorizing governmental entity, and manage the  
5-29 property, including developing undeveloped property owned, leased,  
5-30 or controlled by the authority;

5-31 (6) execute a contract or other instrument;

5-32 (7) enter on land, water, and premises for the  
5-33 purposes of making surveys, soundings, and examinations;

5-34 (8) plan, establish, develop, acquire, construct,  
5-35 enlarge, improve, maintain, equip, operate, regulate, and protect  
5-36 an airport and air navigation facility, including the:

5-37 (A) acquisition, construction, installation,  
5-38 equipment, maintenance, and operation at, in connection with, or in  
5-39 furtherance of the use at an airport of sanitary and storm sewage  
5-40 systems and water, electric, and gas systems, buildings, hangars,  
5-41 and other facilities for:

5-42 (i) airlines, United States military  
5-43 aircraft, and general aviation aircraft; or

5-44 (ii) the comfort, use, and accommodation of  
5-45 air travelers; and

5-46 (B) purchase and sale of supplies, goods, and  
5-47 commodities incident to the operation of an airport property;

5-48 (9) construct, acquire, establish, improve, extend,  
5-49 enlarge, reconstruct, equip, maintain, repair, and operate a  
5-50 heliport, an aerial aircraft landing, loading, or storage area, and  
5-51 a transportation terminal;

5-52 (10) construct, acquire, establish, improve, extend,  
5-53 enlarge, reconstruct, equip, maintain, and repair a building,  
5-54 structure, or facility that is suitable for use as a manufacturing  
5-55 plant, industrial plant, retail shopping area, park, or exhibit, or  
5-56 for the conduct of lawful business at, on, or adjacent to an airport  
5-57 or aircraft landing area owned or operated by the authority;

5-58 (11) lease a building, structure, or facility  
5-59 described in Subdivision (10) to a tenant under terms approved by  
5-60 the authority;

5-61 (12) for compensation, furnish or supply on an airport  
5-62 or aircraft landing area owned or operated by or under the  
5-63 jurisdiction of the authority, to persons and aircraft, goods,  
5-64 commodities, area facilities, and services convenient or useful to  
5-65 the owners, operators, and users of aircraft and to persons at the  
5-66 airport or aircraft landing area, including food, lodging, shelter,  
5-67 drinks, confections, reading matter, oil, gasoline, jet fuel,  
5-68 motors, engines, aircraft, aircraft parts and equipment, space in  
5-69 buildings, space for buildings and structures, and the services of

6-1 mechanics and instructors;  
6-2 (13) confer on any person, for compensation, the  
6-3 privilege or concession of supplying on an airport or aircraft  
6-4 landing area owned or operated by or under the jurisdiction of the  
6-5 authority, all of the items to be furnished or supplied under  
6-6 Subdivision (12);  
6-7 (14) acquire, including by eminent domain, establish,  
6-8 construct, expand, own, control, equip, improve, maintain,  
6-9 operate, and regulate a satellite airport or landing field for the  
6-10 use of aircraft in the state;  
6-11 (15) acquire, including by purchase, gift, devise,  
6-12 lease, or eminent domain proceedings, an existing airport and air  
6-13 navigation facility with the consent of the county, municipality,  
6-14 or other governmental entity of the state that owns or controls the  
6-15 airport and air navigation facility;  
6-16 (16) issue interest-bearing bonds payable from the  
6-17 limited sources available under this chapter;  
6-18 (17) pledge for payment of bonds any revenues and  
6-19 funds from which the bonds are made payable;  
6-20 (18) enter into a contract, lease, or other agreement  
6-21 incidental to or necessary for the accomplishment of any purpose  
6-22 for which the authority was organized;  
6-23 (19) exercise the power of eminent domain with respect  
6-24 to property, including airspace, air navigation easements,  
6-25 structures, obstructions to flight, and property already devoted to  
6-26 public use that reasonably may be necessary for the construction,  
6-27 extension, maintenance, operation, protection, enlargement,  
6-28 improvement, or preservation of an airport or airport facility or  
6-29 sanitary or storm sewage systems or water, electric, or gas systems  
6-30 on, adjacent to, or in connection with or for the furtherance of the  
6-31 use of an airport, aircraft landing area, or other property owned by  
6-32 or operated by the authority;  
6-33 (20) appoint, employ, contract with, and compensate  
6-34 officers, employees, and agents, including engineers, security  
6-35 officers and guards, attorneys, consultants, fiscal advisers, and  
6-36 other employees the authority may require;  
6-37 (21) fix, establish, collect, and alter landing fees,  
6-38 tolls, rents, and other charges for the use of an airport, landing  
6-39 area, building, structure, facility, or other property owned or  
6-40 controlled by the authority;  
6-41 (22) adopt and enforce rules governing the use of an  
6-42 airport, landing area, or airport facility owned or controlled by  
6-43 the authority;  
6-44 (23) provide for insurance, including use and  
6-45 occupancy insurance, as determined by the board;  
6-46 (24) invest funds of the authority that the board  
6-47 determines are not presently needed for its corporate purposes in:  
6-48 (A) a direct general obligation of the United  
6-49 States;  
6-50 (B) an obligation that is unconditionally  
6-51 guaranteed as to both principal and interest by the United States;  
6-52 or  
6-53 (C) bonds of the state, a county, or a  
6-54 municipality;  
6-55 (25) contract with the state, a county, a  
6-56 municipality, a public corporation, an agency, a department, or  
6-57 another political subdivision of this state if the board determines  
6-58 that the contract accomplishes the purposes for which the authority  
6-59 was established;  
6-60 (26) sell and convey property that is obsolete, worn  
6-61 out, or no longer needed or useful;  
6-62 (27) receive and accept for the construction,  
6-63 extension, improvement, maintenance, or operation of an airport or  
6-64 airport facility money, property, labor, or other thing of value  
6-65 from any source, including grants from the United States, the  
6-66 state, or any political subdivision of the state;  
6-67 (28) purchase services, equipment, and supplies  
6-68 necessary or convenient for the exercise of any power of the  
6-69 authority;

7-1 (29) enter into a management agreement with a county  
 7-2 or municipality for the management by the authority of an airport,  
 7-3 air navigation facility, or other facility useful to the authority;

7-4 (30) require the relocation, removal, or other  
 7-5 adjustment of public utility facilities to accommodate a project of  
 7-6 the authority, only if the authority reimburses the public utility  
 7-7 for the cost of the relocation, removal, or other adjustment,  
 7-8 including the value of any easement or other associated property  
 7-9 right; and

7-10 (31) take any other action necessary or convenient to  
 7-11 carry out the purposes of this chapter or the exercise of a power  
 7-12 granted under this chapter.

7-13 Sec. 27.1511. ACQUISITION OR OPERATION OF CERTAIN AIRPORTS.  
 7-14 An authority may not acquire or operate an airport located in the  
 7-15 authority's jurisdiction that, as of the effective date of the Act  
 7-16 that enacted this chapter, has total annual commercial airline  
 7-17 enplanements of 300,000 passengers or more, as reported by the  
 7-18 United States Department of Transportation.

7-19 Sec. 27.152. ZONING. (a) An authority is exempt from  
 7-20 municipal or county zoning laws, ordinances, and regulations.

7-21 (b) An authority has the same zoning powers, for the zoning  
 7-22 of an airport in an unincorporated area owned or operated by the  
 7-23 authority and the zoning of the unincorporated area lying within  
 7-24 two miles of the boundaries of the airport, as a municipality that  
 7-25 owns or operates an airport.

7-26 Sec. 27.153. LIMIT ON EMINENT DOMAIN POWER. An authority  
 7-27 may not acquire by eminent domain real property or rights:

7-28 (1) owned or held by a railroad or utility; or

7-29 (2) under the management and control of the governing  
 7-30 body of an institution of higher education, as defined by Section  
 7-31 61.003, Education Code, including lands set aside and appropriated  
 7-32 to or acquired by the permanent university fund as provided by  
 7-33 Section 11, Article VII, Texas Constitution.

7-34 Sec. 27.154. MUNICIPAL VOTE REQUIRED FOR MUNICIPAL  
 7-35 AIRPORTS. (a) Before an authority may own, acquire, construct, or  
 7-36 operate an airport or an airport facility within the corporate  
 7-37 limits of a municipality, a majority of the governing body of the  
 7-38 municipality must vote in favor of the proposed airport or airport  
 7-39 facility.

7-40 (b) If all the constituent agencies of a joint board created  
 7-41 under Section 22.074 are populous home-rule municipalities, before  
 7-42 an authority may own or operate an existing airport operated by the  
 7-43 joint board, each constituent agency must vote in favor of the  
 7-44 authority's ownership or operation of the airport.

7-45 Sec. 27.155. PEACE OFFICERS. The authority may employ  
 7-46 security officers who have obtained a peace officer license issued  
 7-47 by the Commission on Law Enforcement Officer Standards and  
 7-48 Education.

7-49 [Sections 27.156-27.200 reserved for expansion]

7-50 SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS; TAX EXEMPTIONS

7-51 Sec. 27.201. TAX EXEMPTION; BONDS, PROPERTY, INCOME.

7-52 (a) Bonds issued by an authority and the income on the bonds are  
 7-53 exempt from all state taxation.

7-54 (b) All property and income of an authority are exempt from  
 7-55 all state, county, municipal, and other local taxation.

7-56 (c) Subsection (b) does not exempt concessionaires,  
 7-57 licensees, tenants, operators, or lessees of an authority from the  
 7-58 payment of any taxes, including licenses or privilege taxes imposed  
 7-59 by the state, a county, or a municipality.

7-60 Sec. 27.202. TAX EXEMPTION; ACCESS TO AIRPORTS. A county or  
 7-61 municipality may not require the payment of any tax or privilege  
 7-62 license from a person for the reasonable use of public streets,  
 7-63 roads, or highways leading to or from an airport or aircraft landing  
 7-64 area owned or operated by or under the jurisdiction of an authority.

7-65 Sec. 27.203. FUNDING. (a) An authority is authorized to  
 7-66 accept, receive, disburse, and expend federal money, state money,  
 7-67 and any other money made available by grant or loan to accomplish an  
 7-68 authority purpose.

7-69 (b) Federal money accepted under this section shall be

8-1 accepted and expended by an authority on terms prescribed by the  
8-2 United States that are not inconsistent with the laws of this state.

8-3 Sec. 27.204. TAX IMPLICATIONS. This subchapter does not  
8-4 affect the taxability of any property that is taxable under the Tax  
8-5 Code on the effective date of the Act that enacted this chapter.

8-6 [Sections 27.205-27.250 reserved for expansion]

8-7 SUBCHAPTER F. BONDS

8-8 Sec. 27.251. GENERAL PROVISIONS. (a) An authority may  
8-9 issue interest-bearing revenue bonds for any of the authority's  
8-10 corporate purposes.

8-11 (b) The principal of and the interest on bonds is payable  
8-12 solely from and may be secured by a pledge of the revenue derived by  
8-13 an authority from the operation of authority airports, facilities,  
8-14 and other property.

8-15 (c) Bonds issued or contracts entered into by an authority  
8-16 under this chapter do not create debt of the state, a county, or a  
8-17 municipality and do not create a charge against the credit or taxing  
8-18 powers of the state, a county, or a municipality.

8-19 Sec. 27.252. BONDS ISSUED. (a) Board proceedings shall  
8-20 determine how bonds are issued, including the following matters:

8-21 (1) whether the bonds are issued at any time and from  
8-22 time to time;

8-23 (2) bond form and denominations;

8-24 (3) bond tenor, payable in installments, and at times  
8-25 not to exceed 40 years from the date of issue;

8-26 (4) place of issue; and

8-27 (5) rate of interest.

8-28 (b) A bond having a stated maturity date more than 10 years  
8-29 after its date of issue is subject to redemption at the option of an  
8-30 authority not later than the 10th anniversary of its date of issue  
8-31 and on any interest payment date after that time at a price, after  
8-32 notice, on terms, in the manner provided in the board proceeding  
8-33 that authorized the bond issuance.

8-34 (c) Bonds of an authority may be sold at public or private  
8-35 sale in the manner and from time to time as may be determined by the  
8-36 board.

8-37 (d) An authority may pay all reasonable expenses, premiums,  
8-38 fees, and commissions that the board determines are necessary or  
8-39 advantageous in connection with the authorization, sale, and  
8-40 issuance of bonds.

8-41 (e) Bonds must contain a recital that the bonds are issued  
8-42 under this chapter.

8-43 (f) A public hearing is not required for the issuance of  
8-44 bonds by an authority.

8-45 (g) Bonds issued under this chapter are negotiable  
8-46 instruments within the meaning of the negotiable instruments law of  
8-47 this state if the bonds otherwise possess all the characteristics  
8-48 of a negotiable instrument under the law of this state.

8-49 Sec. 27.253. NOTICE; CHALLENGES. (a) On the adoption of a  
8-50 resolution providing for the issuance of bonds, an authority may  
8-51 publish, once a week for two consecutive weeks, in a newspaper that  
8-52 is distributed in the county in which the principal office of the  
8-53 authority is located, notice in substantially the following form at  
8-54 the end of which shall be printed the name and title of either the  
8-55 chair or secretary of the authority:

8-56 "\_\_\_\_\_, a public corporation of the State of Texas,  
8-57 on the \_\_\_\_ day of \_\_\_\_\_ authorized the issuance of  
8-58 \$\_\_\_\_\_ principal amount of revenue bonds of the  
8-59 corporation for purposes authorized in the Act of the  
8-60 Legislature of Texas under which the corporation was  
8-61 organized. Any action or proceeding questioning the  
8-62 validity of the bonds, or the pledge and any  
8-63 instruments securing the bonds, or the proceedings  
8-64 authorizing the bonds, must be commenced within 20  
8-65 days after the first publication of this notice."

8-66 (b) An action or proceeding in a court to set aside or  
8-67 question the proceedings for the issuance of bonds referred to in a  
8-68 notice under Subsection (a) or to contest the validity of the bonds  
8-69 or the validity of the pledge and any instruments made to secure the



9-1 bonds must be commenced before the 31st day after the date of first  
 9-2 publication of the notice.

9-3 (c) After the 30-day period described under Subsection (b)  
 9-4 expires:

9-5 (1) a right of action or defense questioning or  
 9-6 attacking the validity of the proceedings, bonds, pledge, or  
 9-7 instruments may not be asserted; and

9-8 (2) the validity of the proceedings, bonds, pledge, or  
 9-9 instruments is not open to question in a court on any ground.

9-10 Sec. 27.254. EXECUTION AND DELIVERY. (a) Bonds shall be  
 9-11 signed by the chair or vice chair and by the secretary or treasurer  
 9-12 of an authority. The signature of one of the officers whose  
 9-13 signatures will appear on the bonds may be imprinted or otherwise  
 9-14 reproduced.

9-15 (b) The seal of an authority must be affixed onto the bonds  
 9-16 or a facsimile of the seal of an authority must be imprinted or  
 9-17 otherwise reproduced on the bonds.

9-18 (c) Coupons must be signed by the chair or vice chair and by  
 9-19 the secretary or treasurer of an authority. The signature of the  
 9-20 secretary or treasurer may be imprinted or otherwise reproduced.

9-21 (d) Delivery of bonds executed as provided under this  
 9-22 section is valid regardless of any changes in officers or in the  
 9-23 authority seal after the signing and sealing of the bonds.

9-24 Sec. 27.255. SECURITY. (a) At the discretion of an  
 9-25 authority, bonds may be issued under and secured by an indenture  
 9-26 between the authority and a trustee. A trustee may be a private  
 9-27 person or corporation, including a trust company or bank having  
 9-28 trust powers.

9-29 (b) In an indenture or resolution providing for the issuance  
 9-30 of bonds, the authority may:

9-31 (1) pledge, for payment of the principal of and the  
 9-32 interest on bonds, authority revenue;

9-33 (2) assign, as security for payment, a lease,  
 9-34 franchise, permit, or contract; and

9-35 (3) mortgage a property.

9-36 (c) A pledge of revenue is valid from the time it is made.  
 9-37 Pledged revenue received after the pledge by an authority  
 9-38 immediately becomes subject to the lien of the pledge without  
 9-39 physical delivery or further act. The lien of the pledge is binding  
 9-40 against a party having a claim of any kind against the authority,  
 9-41 regardless of whether the party has actual notice of the lien, from  
 9-42 the time a statement is filed in the office of the county clerk of:

9-43 (1) the county in which the principal office of the  
 9-44 authority is located; or

9-45 (2) a county in which any part of the property, the  
 9-46 revenue from which are pledged, is located.

9-47 (d) A statement under Subsection (c) must contain:

9-48 (1) the date on which a resolution authorizing the  
 9-49 issuance of bonds was adopted by a board;

9-50 (2) the principal amount of bonds issued;

9-51 (3) a brief description of the revenue pledged; and

9-52 (4) a brief description of property the revenue from  
 9-53 which is pledged.

9-54 (e) In an indenture or resolution pledging revenue from an  
 9-55 airport, building, or facility, an authority may include provisions  
 9-56 customarily contained in instruments securing evidence of  
 9-57 indebtedness, including provisions relating to:

9-58 (1) the collection, segregation, and application of  
 9-59 rental or other revenue due or to become due to the authority;

9-60 (2) the terms to be incorporated in a lease agreement  
 9-61 pertaining to authority property;

9-62 (3) the maintenance and insurance of a building or  
 9-63 structure owned by the authority;

9-64 (4) the creation and maintenance of special funds from  
 9-65 revenue of the authority;

9-66 (5) the rights and remedies available in the event of  
 9-67 default to the holder of the bonds or the trustee under the  
 9-68 indenture; and

9-69 (6) restricting the individual rights of action of the

10-1 holders of the bonds and coupons.

10-2 (f) If an authority defaults in payment of the principal of  
 10-3 or interest on bonds or in an agreement included in an indenture  
 10-4 securing the bonds, a holder of the bonds or any of the coupons, or  
 10-5 the trustee under an indenture if authorized in the indenture:

10-6 (1) may enforce payment of the principal or interest  
 10-7 by civil action, mandamus, or other proceeding;

10-8 (2) may compel performance of a duty of the board and  
 10-9 officers of the authority; and

10-10 (3) is as a matter of right and regardless of the  
 10-11 sufficiency of the security entitled to the appointment of a  
 10-12 receiver with all the powers of a receiver for the:

10-13 (A) operation and maintenance of the property of  
 10-14 the authority covered by the indenture; and

10-15 (B) collection, segregation, and application of  
 10-16 revenue from property of the authority covered by the indenture.

10-17 Sec. 27.256. PROCEEDS. (a) Proceeds derived from the sale  
 10-18 of bonds may be used only to pay the cost of acquiring,  
 10-19 constructing, improving, enlarging, and equipping an airport,  
 10-20 facility, or other property as specified in the proceedings in  
 10-21 which the bonds are authorized to be issued.

10-22 (b) Eligible costs under Subsection (a) include:

10-23 (1) the cost of land forming a part of an airport,  
 10-24 facility, or other property;

10-25 (2) the cost of labor, material, and supplies used in  
 10-26 the construction, improvement, or enlargement, including  
 10-27 architects' and engineers' fees and the cost of preparing contract  
 10-28 documents and advertising for bids;

10-29 (3) the purchase price of and the cost of installing  
 10-30 equipment for the airport, facility, or other property;

10-31 (4) the cost of landscaping the lands forming a part of  
 10-32 an airport, facility, or property, and of constructing roads,  
 10-33 sidewalks, curbs, gutters, utilities, and parking places in  
 10-34 connection with an airport, facility, or other property;

10-35 (5) legal, fiscal, and recording fees and expenses  
 10-36 incurred in connection with the authorization, sale, and issuance  
 10-37 of bonds issued in connection with an airport, facility, or other  
 10-38 property; and

10-39 (6) interest on bonds issued in connection with an  
 10-40 airport, facility, or other property for a reasonable period before  
 10-41 and during the time required for the construction and equipment not  
 10-42 to exceed 18 months after the date of completion of the construction  
 10-43 and equipment.

10-44 (c) If any proceeds derived from the sale of bonds remain  
 10-45 undisbursed after completion of the work described under Subsection  
 10-46 (a) and payment of costs under Subsection (b), the proceeds shall be  
 10-47 used for retirement of the principal of the bonds of the same issue.

10-48 Sec. 27.257. REFUNDING BONDS. (a) An authority may at any  
 10-49 time issue refunding bonds for the purpose of:

10-50 (1) refunding the principal of and interest on  
 10-51 outstanding bonds of the authority regardless of whether the  
 10-52 principal and interest have matured at the time of the refunding;  
 10-53 and

10-54 (2) paying the expenses incurred in connection with  
 10-55 the refunding and any premium necessary to be paid to redeem,  
 10-56 retire, or purchase for retirement the bonds to be refunded.

10-57 (b) Proceeds derived from the sale of refunding bonds may be  
 10-58 used only for the purposes for which the refunding bonds were  
 10-59 authorized to be issued.

10-60 (c) Refunding may be effected:

10-61 (1) by sale of the refunding bonds and the application  
 10-62 of the proceeds; or

10-63 (2) by exchange of the refunding bonds for the bonds or  
 10-64 interest coupons to be refunded, except that the holders of the  
 10-65 bonds or coupons to be refunded may not be compelled without their  
 10-66 consent to surrender their bonds or coupons for payment or exchange  
 10-67 before the date on which they may be paid or redeemed by call of the  
 10-68 authority under their respective provisions.

10-69 (d) If an authority issues bonds for the purpose of

11-1 refunding the principal of and interest on any of its bonds or for  
11-2 any other purpose for which it is authorized to issue bonds, this  
11-3 section applies only to the portion of the combined issue  
11-4 authorized for refunding purposes, and the rest of this subchapter  
11-5 applies to the remaining portion of the combined issue.

11-6 Sec. 27.258. LOCAL GOVERNMENT INVESTMENT. A governing body  
11-7 of a county or municipality may invest idle or surplus money held in  
11-8 its treasury in authority bonds.

11-9 Sec. 27.259. LEGAL INVESTMENTS. (a) Bonds issued under  
11-10 this subchapter are legal investments for executors,  
11-11 administrators, trustees, and other fiduciaries, unless otherwise  
11-12 directed by the court having jurisdiction of the fiduciary relation  
11-13 or by the document that is the source of the fiduciary's authority.

11-14 (b) Bonds issued under this subchapter are legal  
11-15 investments for savings banks and insurance companies organized  
11-16 under the laws of this state.

11-17 [Sections 27.260-27.300 reserved for expansion]

11-18 SUBCHAPTER G. WITHDRAWAL OR DISSOLUTION

11-19 Sec. 27.301. WITHDRAWAL FROM AUTHORITY. (a) After the  
11-20 organization of an airport authority by more than one governmental  
11-21 entity, the state, a county, or a municipality in an authority may  
11-22 withdraw from the authority by resolution of the governor, the  
11-23 commissioners court of the county, or the governing body of the  
11-24 municipality.

11-25 (b) A withdrawing entity may not claim or remove an asset of  
11-26 the authority.

11-27 Sec. 27.302. DISSOLUTION. (a) If an authority does not  
11-28 have outstanding bonds, the authority may be dissolved on the  
11-29 filing of articles of dissolution with the secretary of state by  
11-30 each member of the authority.

11-31 (b) On issue of a certificate of dissolution by the  
11-32 secretary of state, an authority dissolves. On dissolution, all  
11-33 rights, titles, and interests of the authority in property:

11-34 (1) vest in the authorizing governmental entities as  
11-35 provided by the articles of incorporation; or

11-36 (2) if not provided for in the articles of  
11-37 incorporation, vest in the authorizing governmental entities  
11-38 equally.

11-39 SECTION 3. EFFECTIVE DATE. This Act takes effect  
11-40 immediately if it receives a vote of two-thirds of all the members  
11-41 elected to each house, as provided by Section 39, Article III, Texas  
11-42 Constitution. If this Act does not receive the vote necessary for  
11-43 immediate effect, this Act takes effect September 1, 2007.

11-44 \* \* \* \* \*