

By: Nelson, Brimer

S.B. No. 1693

A BILL TO BE ENTITLED

AN ACT

relating to the creation of inland port authorities; providing authority to impose a tax and issue bonds.

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

SECTION 1. The Business & Commerce Code is amended by adding Title 15 to read as follows:

TITLE 15. CURRENCY AND TRADE

SUBTITLE A. CURRENCY

SUBTITLE B. PORT OF ENTRY AUTHORITIES

CHAPTER 672. INLAND PORT AUTHORITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 672.001. DEFINITIONS. In this chapter:

(1) "Authority" means an inland port authority created under this chapter.

(2) "Board" means the board of directors of an authority.

(3) "Bond" includes a bond, certificate, note, or other obligation.

(4) "Inland port" means an area with direct access to highway, rail, air transport, or intermodal facilities but located away from traditional land and coastal borders.

(5) "Participating entity" means a municipality or county creating an authority.

Sec. 672.002. NATURE OF INLAND PORT AUTHORITY. An

1 authority is a special district and a political subdivision of this  
2 state created under Section 59, Article XVI, Texas Constitution.

3 Sec. 672.003. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

4 (a) An authority is created to serve a public use and benefit.

5 (b) All land and other property to be included in an  
6 authority will benefit from the works and projects to be provided by  
7 the authority under powers conferred by Sections 52 and 52-a,  
8 Article III, and Section 59, Article XVI, Texas Constitution, and  
9 other powers granted under this chapter.

10 (c) The creation of the authority is in the public interest  
11 and is essential to:

12 (1) further the public purposes of developing and  
13 diversifying the economy of the state;

14 (2) promote homeland security and protection;

15 (3) eliminate unemployment and underemployment; and

16 (4) develop or expand transportation and commerce.

17 (d) This chapter furthers the public purposes of developing  
18 and diversifying the economy of this state by encouraging the  
19 establishment of inland ports to facilitate commerce through:

20 (1) strategic investment in multi-modal  
21 transportation assets; and

22 (2) comprehensive planning, development, management,  
23 and operation of facilities and supporting infrastructure for:

24 (A) transportation;

25 (B) commercial processing; and

26 (C) domestic and international trade.

27 (e) The authority will not act as the agent or

1 instrumentality of any private interest even though the authority  
2 will benefit many private interests as well as the public.

3 [Sections 672.004-672.050 reserved for expansion]

4 SUBCHAPTER B. CREATION OF AUTHORITY

5 Sec. 672.051. AREAS ELIGIBLE FOR CREATION OF AUTHORITY. An  
6 authority may be created only in a contiguous area located in not  
7 more than two adjacent counties that within its boundaries:

8 (1) does not include any residential property; and

9 (2) includes:

10 (A) a municipally owned airport with a runway at  
11 least 5,500 feet in length;

12 (B) a portion of a highway designated as a high  
13 priority trade corridor on the national highway system; and

14 (C) operating assets of at least one Class I  
15 railroad as classified by the federal Surface Transportation Board.

16 Sec. 672.052. ELIGIBILITY OF ENTITY TO CREATE AN AUTHORITY.  
17 A participating entity is eligible to create an authority if the  
18 entity is wholly or partly located in the authority's proposed  
19 boundaries.

20 Sec. 672.053. PROPOSAL TO CREATE. An authority is proposed  
21 to be created when each participating entity:

22 (1) by order, ordinance, or resolution authorizes the  
23 authority's creation; and

24 (2) executes an agreement to create the authority.

25 Sec. 672.054. HEARINGS. (a) Not earlier than the 60th day  
26 or later than the 30th day before the date the governing body of a  
27 participating entity proposes to create an authority under Section

1 672.053, the governing body must hold two hearings to consider the  
2 creation of the proposed authority.

3 (b) Not later than the seventh day before the date of each  
4 hearing, the participating entity must publish notice of the  
5 hearing in a newspaper of general circulation in the area of the  
6 proposed authority.

7 (c) The notice must state:

8 (1) the date, time, and place for the hearing;

9 (2) the boundaries of the proposed authority,  
10 including a map of the proposed authority; and

11 (3) the powers of the proposed authority, including  
12 the power to impose assessments and ad valorem taxes.

13 (d) The required notice may be published, and the public  
14 hearings may be conducted, jointly by a municipality and a county in  
15 which the municipality is wholly or partly located.

16 Sec. 672.055. CREATION BY ORDER, ORDINANCE, OR RESOLUTION.

17 (a) After all hearings, the governing bodies of the participating  
18 entities may by concurrent order, ordinance, or resolution create  
19 an authority.

20 (b) The order, ordinance, or resolution creating the  
21 authority must:

22 (1) specify the number of authority directors and who  
23 appoints the directors;

24 (2) describe the authority's boundaries; and

25 (3) name the authority the "(insert name) Inland Port  
26 Authority."

27 [Sections 672.056-672.100 reserved for expansion]

1           SUBCHAPTER C. BOARD OF DIRECTORS; EMPLOYEES

2           Sec. 672.101. GOVERNING BODY. (a) The governing body of  
3 an authority is a board of directors with an odd number of directors  
4 agreed to by the participating entities when creating the  
5 authority. The board is composed of:

6           (1) three directors appointed by the most populous  
7 municipality in the authority;

8           (2) one director appointed by each county in the  
9 authority;

10          (3) one director appointed by each municipality in the  
11 authority that has not made an appointment under Subdivision (1);

12          (4) one director appointed by each school district  
13 that owns property in the authority; and

14          (5) any other directors appointed as provided in the  
15 concurrent order, ordinance, or resolution creating the authority.

16          (b) The board shall manage, operate, and control the  
17 authority.

18          Sec. 672.102. TERMS. The participating entities shall  
19 appoint the directors to serve staggered four-year terms with as  
20 near as possible to one-half of the directors' terms expiring every  
21 two years.

22          Sec. 672.103. QUALIFICATIONS. (a) A director must reside  
23 in the boundaries of one of the participating entities.

24          (b) An individual may not serve on the board if the  
25 individual is:

26           (1) an elected official of any governmental entity; or

27           (2) an employee of a participating entity.

1       Sec. 672.104. MAJORITY VOTE; QUORUM. (a) The vote of a  
2 majority attending a board meeting is necessary for any action  
3 taken by the board.

4       (b) If a vacancy exists on a board, the majority of  
5 directors serving on the board is a quorum.

6       Sec. 672.105. OFFICERS. (a) The board shall elect a  
7 presiding officer and an assistant presiding officer.

8       (b) The assistant presiding officer presides in the absence  
9 of the presiding officer.

10       (c) The board may elect other officers it considers  
11 appropriate.

12       Sec. 672.106. COMPENSATION; EXPENSES. A director serves  
13 without compensation but is entitled to reimbursement for actual  
14 and necessary expenses.

15       Sec. 672.107. PROHIBITED CONDUCT FOR DIRECTORS AND  
16 EMPLOYEES. An authority director or employee may not:

17               (1) accept or solicit any gift, favor, or service:

18                       (A) that might reasonably influence the director  
19 or employee in the discharge of an official duty; or

20                       (B) that the director or employee knows or should  
21 know is being offered with the intent to influence the director's or  
22 employee's official conduct;

23               (2) accept other employment or engage in a business or  
24 professional activity that the director or employee might  
25 reasonably expect would require or induce the director or employee  
26 to disclose confidential information acquired by reason of the  
27 official position;

1           (3) make personal investments that could reasonably be  
2 expected to create a substantial conflict between the director's or  
3 employee's private interest and the interest of the authority;

4           (4) intentionally or knowingly solicit, accept, or  
5 agree to accept any benefit for having exercised the director's or  
6 employee's official powers or performed the director's or  
7 employee's official duties in favor of another; or

8           (5) have a personal interest in an agreement executed  
9 by the authority.

10           [Sections 672.108-672.150 reserved for expansion]

11                   SUBCHAPTER D. POWERS AND DUTIES

12           Sec. 672.151. MUNICIPAL MANAGEMENT DISTRICT POWERS AND  
13 DUTIES. An authority has the powers and duties applicable to a  
14 municipal management district under Subchapter E, Chapter 375,  
15 Local Government Code.

16           Sec. 672.152. RULES. An authority may adopt rules to govern  
17 the operation of the authority, including rules relating to:

18                   (1) its employees;

19                   (2) its facilities;

20                   (3) health, safety, and general welfare of persons and  
21 property; and

22                   (4) any other necessary matter concerning its  
23 purposes.

24           Sec. 672.153. INLAND PORTS FACILITATION. An authority  
25 shall facilitate and process national and international trade  
26 through strategic investment in multi-modal transportation assets,  
27 logistics systems, security processes, customs facilities, and

1 freight transfer equipment and by promoting value-added services as  
2 goods move through the supply chain and into national and  
3 international commerce.

4 Sec. 672.154. TRANSPORTATION PROJECTS; PUBLIC UTILITY  
5 FACILITIES. (a) In this section:

6 (1) "Cogeneration facility" means a facility that  
7 generates electricity and heat in a single thermodynamic process.

8 (2) "Inland port improvement or facility" means an  
9 improvement or facility necessary or convenient for the proper  
10 operation of an inland port and may include land and equipment that  
11 have development potential for industrial, distribution, and  
12 processing facilities that support the movement of goods in  
13 national and international commerce.

14 (3) "Intermodal hub" means a central location where  
15 cargo containers can be easily and quickly transferred between  
16 trucks, trains, and airplanes, including through the use of cranes,  
17 conveyors, side loaders, and other equipment for the automated or  
18 semi-automated movement of cargo.

19 (4) "Public utility facility" means:

20 (A) a water, wastewater, natural gas, or  
21 petroleum pipeline or associated equipment;

22 (B) an electric transmission or distribution  
23 line, a cogeneration facility, or associated equipment; or

24 (C) telecommunications information services, or  
25 cable television infrastructure or associated equipment, including  
26 fiber optic cable, conduit, and wireless communications  
27 facilities.



1           (5) "Spaceport" means a facility and related equipment  
2 for the development and deployment of commercial space activities,  
3 including suborbital space flights, space training programs, zero  
4 gravity flights, jet flight adventures, visitor centers and  
5 museums, and space camps.

6           (6) "Transportation project" means:

7           (A) a passenger or freight rail facility,  
8 including:

9                           (i) railroad tracks;  
10                           (ii) a rail line;  
11                           (iii) switching, signaling, or other  
12 operating equipment;

13                           (iv) a depot or other facility for  
14 receiving;

15                           (v) a locomotive;  
16                           (vi) rolling stock;  
17                           (vii) cranes, conveyors, and other  
18 equipment for movement of freight, including containers;

19                           (viii) security facilities for scanning,  
20 screening, and inspection of freight, trucks, railcars, and other  
21 means of containerized transport of freight;

22                           (ix) a maintenance facility; and  
23                           (x) other real and personal property  
24 associated with a rail operation;

25           (B) a roadway with a functional classification  
26 greater than a local road or rural minor collector;

27           (C) an airport and facilities supporting and used

1 in airport operations, including aircraft, runways, runway  
2 expansions or extensions, terminals, and air traffic control  
3 facilities;

4 (D) a spaceport;

5 (E) an intermodal hub;

6 (F) an automated conveyor belt for the movement  
7 of freight;

8 (G) a border crossing inspection station; or

9 (H) an inland port facility or improvement.

10 (b) An authority may acquire a transportation project or  
11 public utility facility, acquire property for a transportation  
12 project or public utility facility, and construct or improve a  
13 transportation project or public utility facility inside or, if  
14 contiguous to a project or facility inside the authority, outside  
15 the authority as necessary to ensure an adequate transportation or  
16 public utility infrastructure to support authority facilities or  
17 operations.

18 (c) An authority may finance a transportation project or  
19 public utility facility or construction, acquisition, or  
20 improvement of a transportation project or public utility facility  
21 from money available to the authority under this chapter.

22 Sec. 672.155. OWNERSHIP OF AUTHORITY PROJECTS. (a) A  
23 transportation project that is the subject of a development  
24 agreement with a private entity, including the facilities acquired  
25 or constructed on the project, is public property and belongs to the  
26 authority that entered into the agreement.

27 (b) An authority may enter into an agreement that provides

1 for the lease of rights-of-way, the granting of easements, the  
2 issuance of franchises, concessions, licenses, or permits, or any  
3 lawful uses to enable a private entity to construct, occupy,  
4 operate, and maintain a transportation project, including  
5 supplemental facilities. At the termination of the agreement, the  
6 transportation project, including the facilities, must be in a  
7 state of proper maintenance as determined by the authority and  
8 returned to the authority in satisfactory condition at no further  
9 cost.

10 Sec. 672.156. PROPERTY. An authority may acquire,  
11 construct, complete, develop, finance, own, operate, maintain,  
12 lease, and sell any kind of property to any person for any authority  
13 purpose, including transportation projects, office buildings,  
14 warehouses, passenger and freight terminals, container examination  
15 stations, and any other facility necessary or useful to fulfilling  
16 the purposes of the authority.

17 Sec. 672.157. PURCHASE OF REAL PROPERTY. An authority may  
18 purchase an interest in real property to acquire, construct, or  
19 operate an authority facility on terms and at a price agreed to  
20 between the authority and the owner.

21 Sec. 672.158. CONVEYANCE OF PROPERTY. The governing body  
22 of a municipality, county, or other governmental entity may convey  
23 title or rights and easements to any property needed by the  
24 authority to effect its purposes.

25 Sec. 672.159. NO EMINENT DOMAIN POWER. An authority may not  
26 exercise the power of eminent domain.

27 Sec. 672.160. TRANSPORTATION PROJECT; CONSTRUCTION

1 MANAGER-AT-RISK. (a) An authority may contract for the design and  
2 construction of a transportation project under Section 672.154 by a  
3 construction manager-at-risk procedure under which the  
4 construction manager-at-risk provides consultation to the  
5 authority during the design of the transportation project and is  
6 responsible for construction of the transportation project in  
7 accordance with the authority's specifications.

8 (b) The authority shall select the construction  
9 manager-at-risk on the basis of criteria established by the  
10 authority, which may include the construction manager-at-risk's  
11 experience, past performance, safety record, proposed personnel  
12 and methodology, proposed fees, and other appropriate factors that  
13 demonstrate the construction manager-at-risk's ability to provide  
14 the best value to the authority and to deliver the required services  
15 in accordance with the authority's specifications.

16 (c) The authority shall adopt rules governing the award of  
17 contracts using construction manager-at-risk procedures under this  
18 section.

19 (d) To the extent of a conflict between this section and  
20 another law, this section controls.

21 Sec. 672.161. LEASES. An authority may lease the use of any  
22 of its facilities or equipment. A lease term may not exceed 50  
23 years.

24 Sec. 672.162. AGREEMENTS. An authority may enter into an  
25 agreement with any person, including with the United States or any  
26 other governmental entity, for any authority purpose.

27 Sec. 672.163. JOINT ACTIONS. An authority may act jointly

1 with any other person, private or public, inside or outside this  
2 state or the United States, in the performance of any power or duty  
3 under this chapter or other law.

4 Sec. 672.164. INSURANCE. (a) An authority may purchase  
5 and pay premiums to insurers for insurance of any type in amounts  
6 considered necessary or advisable by the board.

7 (b) An authority may purchase an additional insured  
8 provision to any liability insurance contract.

9 Sec. 672.165. PROMOTION AND ADVERTISING. An authority may  
10 promote the use of an authority project, facility, or service,  
11 including a project, facility, or service that it operates on  
12 behalf of another entity or that another entity operates on behalf  
13 of the authority, by appropriate means, including advertising or  
14 marketing as the authority determines appropriate.

15 Sec. 672.166. SECURITY SERVICES. An authority may employ a  
16 security officer who holds a peace officer license issued by the  
17 Commission on Law Enforcement Officer Standards and Education.

18 Sec. 672.167. GRANTS; LOANS; DONATIONS. An authority may  
19 accept a grant, loan, or donation from any person, including the  
20 United States, this state, or a political subdivision of this  
21 state.

22 Sec. 672.168. VENUE. An action against the authority must  
23 be brought in the county in which the principal office of the  
24 authority is located.

25 Sec. 672.169. CONSENT REQUIRED FOR CERTAIN POWERS. With  
26 the consent of a municipality, county, or other political  
27 subdivision, an authority may:

1           (1) use streets, alleys, roads, highways, and other  
2 public ways of the municipality, county, or other political  
3 subdivision; and

4           (2) relocate, raise, reroute, change the grade of, or  
5 alter, at the expense of the authority, the construction of:

6                   (A) a street, alley, highway, road, or railroad;

7                   (B) electric lines and facilities;

8                   (C) telegraph and telephone properties and  
9 facilities;

10                   (D) pipelines and facilities;

11                   (E) conduits and facilities; and

12                   (F) other property, whether publicly or  
13 privately owned, as necessary or useful in the construction,  
14 reconstruction, repair, maintenance, and operation of facilities.

15           Sec. 672.170. CONSENT OF TEXAS DEPARTMENT OF TRANSPORTATION  
16 REQUIRED FOR HIGHWAY WORK. An authority may not alter a highway  
17 that is part of the state highway system without the consent of the  
18 Texas Department of Transportation.

19           Sec. 672.171. CONSENT OF RAILROAD REQUIRED. An authority  
20 may not alter a railroad without consent of the railroad.

21           Sec. 672.172. NO RETAIL UTILITY SERVICES. An authority may  
22 not provide retail utility services.

23           Sec. 672.173. NO DUPLICATION OF SERVICES OR FACILITY OF  
24 PUBLIC ENTITY. An authority may not duplicate a service or facility  
25 of another public entity.

26           [Sections 672.174-672.200 reserved for expansion]

1                   SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

2                   Sec. 672.201. RATES. An authority shall establish and  
3 maintain commercially reasonable and nondiscriminatory rates,  
4 rentals, fees, charges, or other compensation for the use of  
5 facilities constructed, operated, regulated, or maintained by the  
6 authority that are commercially reasonable and nondiscriminatory.

7                   Sec. 672.202. REIMBURSEMENT TO AND PURCHASES FROM PRIVATE  
8 ENTITIES. (a) An authority may reimburse a private entity for  
9 money spent to improve facilities or other property in the  
10 authority if the improvement will provide a public benefit or has  
11 been or will be dedicated or otherwise transferred to public use.

12                   (b) An authority may purchase any improvement to property  
13 that has been or will be constructed by a private entity, regardless  
14 of whether the construction occurs before or after the creation of  
15 the authority.

16                   Sec. 672.203. LIABILITIES. An authority may incur  
17 liabilities, borrow money on terms the board determines, enter into  
18 short-term borrowing and commercial paper transactions, and issue  
19 bonds.

20                   Sec. 672.204. CREDIT AGREEMENTS. An authority may enter  
21 into credit agreements under Chapter 1371, Government Code.

22                   Sec. 672.205. PROCUREMENT. (a) An authority shall adopt  
23 rules governing the award of contracts through competitive  
24 processes for goods and services.

25                   (b) An authority may procure goods and services, including  
26 materials, engineering, design, construction, operations,  
27 maintenance, and other goods and services, through any procedure

1 authorized by this chapter.

2 (c) To the extent of a conflict between this section and any  
3 other law, this section controls.

4 Sec. 672.206. DEPOSITORY OR TREASURER. (a) The board by  
5 resolution shall designate a bank or banks as the authority's  
6 depository.

7 (b) All authority money must be secured in the manner  
8 provided for securing county funds.

9 [Sections 672.207-672.250 reserved for expansion]

10 SUBCHAPTER F. ASSESSMENTS AND IMPACT FEES

11 Sec. 672.251. GENERAL POWERS RELATING TO ASSESSMENTS AND  
12 IMPACT FEES. An authority may impose assessments and impact fees  
13 under Subchapters F and G, Chapter 375, Local Government Code.

14 Sec. 672.252. ADDITIONAL ASSESSMENT POWERS. In addition to  
15 the powers granted under Subchapter F, Chapter 375, Local  
16 Government Code, an improvement project undertaken by an authority  
17 may include:

18 (1) the financing of any of the improvements described  
19 in Section 375.112, Local Government Code; and

20 (2) the construction, financing, acquisition,  
21 improvement, relocation, operation, maintenance, or provision of  
22 an inland port facility or transportation project under Subchapter  
23 D.

24 [Sections 672.253-672.300 reserved for expansion]

25 SUBCHAPTER G. AD VALOREM TAXES AND BONDS

26 Sec. 672.301. GENERAL BOND AUTHORITY. (a) Except as  
27 otherwise provided by this subchapter, an authority may issue bonds



1 as provided by Subchapter J, Chapter 375, Local Government Code.

2 (b) Sections 375.207 and 375.208, Local Government Code, do  
3 not apply to an authority.

4 Sec. 672.302. TAX AND BOND ELECTION. (a) The authority  
5 may not issue bonds secured by taxes unless the issuance of the  
6 bonds and the tax to source the bonds are approved at an election in  
7 the authority held for that purpose.

8 (b) The authority may issue bonds not secured by taxes  
9 without an election.

10 (c) The proposition submitted in the election must state:

11 (1) the purpose for which the bonds are to be issued;

12 (2) the amount of the bonds;

13 (3) the interest rate;

14 (4) the tax rate that will be imposed sufficient to pay  
15 the annual interest on the bonds and to provide a sinking fund to  
16 redeem the bonds at maturity; and

17 (5) the maturity date of the bonds or that the bonds  
18 may be issued to mature serially over a specified number of years  
19 not to exceed 40.

20 (d) In addition to the notice required by Section 4.003(c),  
21 Election Code, the authority shall provide notice of the election  
22 by:

23 (1) posting a substantial copy of the election order

24 at:

25 (A) three public places in the authority, which  
26 may include the place for posting of official notices maintained by  
27 one or more of the participating entities; and

1                   (B) the authority's principal office; and  
2                   (2) publishing notice of the election in a newspaper  
3 of general circulation published in the authority.

4                   (e) The notice required by Subsection (d)(2) must be  
5 published on the same day in each of two successive weeks. The  
6 first publication must be not less than 14 days before the date of  
7 the election.

8                   (f) At the election, the ballots shall be printed to permit  
9 voting for or against the proposition: "The issuance of bonds and  
10 the imposition of taxes at (insert rate) to secure the bonds."

11                   Sec. 672.303. AD VALOREM TAX AUTHORIZED; RATE. (a) The  
12 authority may impose an ad valorem tax for any authority purpose if  
13 a majority of the authority voters voting at an election called for  
14 that purpose vote in favor of the tax.

15                   (b) The authority's tax rate may not exceed:

16                   (1) 10 cents on each \$100 valuation of all taxable  
17 property in the authority; or

18                   (2) the highest ad valorem tax rate imposed by any of  
19 the participating entities.

20                   (c) The authority shall publish notice and hold a hearing on  
21 the tax rate in the same manner as provided by Section 672.054.

22                   (d) After setting the tax rate, the authority is governed by  
23 the provisions of the Tax Code governing ad valorem taxes of  
24 home-rule municipalities.

25                   (e) The initial tax rate does not take effect until the tax  
26 year beginning on a date after the date of the initial meeting of  
27 the board or the tax year following the date the board sets the

1 initial tax rate, whichever is later.

2 Sec. 672.304. CERTIFICATES OF OBLIGATION. An authority may  
3 issue certificates of obligation in the manner provided by  
4 Subchapter C, Chapter 271, Local Government Code.

5 Sec. 672.305. NO MUNICIPAL OR COUNTY OBLIGATION. Except as  
6 provided by Section 672.402, a participating entity is not  
7 obligated to pay any authority bonds.

8 Sec. 672.306. BONDS EXEMPT FROM TAXATION. Bonds issued  
9 under this chapter, the transfer of the bonds, and income from the  
10 bonds, including profits made on the sale of the bonds, are exempt  
11 from taxation in this state.

12 Sec. 672.307. APPLICATION OF OTHER LAW. Chapter 2007,  
13 Government Code, does not apply to a tax imposed by an authority.

14 [Sections 672.308-672.350 reserved for expansion]

15 SUBCHAPTER H. COMPREHENSIVE DEVELOPMENT AGREEMENTS

16 Sec. 672.351. COMPREHENSIVE DEVELOPMENT AGREEMENT DEFINED.  
17 A comprehensive development agreement is an agreement with a  
18 private entity that:

19 (1) at a minimum, provides for the design and  
20 construction of a project;

21 (2) may provide for the financing, acquisition,  
22 maintenance, or operation of the project; and

23 (3) provides that the project that is the subject of  
24 the agreement is public property and is owned by the authority.

25 Sec. 672.352. USE OF AGREEMENT. An authority may use a  
26 comprehensive development agreement to construct, maintain,  
27 repair, operate, extend, or expand an authority project.

1       Sec. 672.353. PROFESSIONAL AND CONSULTING SERVICES.

2       (a) An authority may negotiate provisions relating to  
3 professional and consulting services provided in connection with a  
4 comprehensive development agreement.

5       (b) Chapter 2254, Government Code, does not apply to a  
6 comprehensive development agreement entered into under this  
7 subchapter.

8       Sec. 672.354. PROCESS; BEST VALUE; RULES. (a) If an  
9 authority enters into a comprehensive development agreement, the  
10 authority shall use a competitive procurement process that provides  
11 the best value for the authority.

12       (b) An authority shall adopt rules, procedures, and other  
13 guidelines governing selection and negotiations to promote  
14 fairness, obtain private participants in authority projects, and  
15 promote confidence among those participants.

16       (c) The rules must contain criteria relating to the  
17 qualifications of the participants and the award of the contracts.  
18 An authority shall make those rules or policies publicly available  
19 prior to commencing any procurement.

20       Sec. 672.355. CONFIDENTIALITY OF NEGOTIATIONS FOR  
21 COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) The following  
22 information is confidential, is not subject to disclosure,  
23 inspection, or copying under Chapter 552, Government Code, and is  
24 not subject to disclosure, discovery, subpoena, or other means of  
25 legal compulsion for its release until a final agreement for a  
26 proposed project is entered into:

27       (1) all or part of a proposal submitted by a private

1 entity for a comprehensive development agreement, except  
2 information that a private entity agrees may be made public;

3 (2) supplemental information or material submitted by  
4 a private entity in connection with a proposal for a comprehensive  
5 development agreement; and

6 (3) information created or collected by an authority  
7 or its agent during consideration of a proposal for a comprehensive  
8 development agreement.

9 (b) After an authority completes its final ranking of  
10 proposals, the final rankings of each proposal under each of the  
11 published criteria are not confidential.

12 Sec. 672.356. PERFORMANCE AND PAYMENT SECURITY. (a) An  
13 authority shall require a private entity entering into a  
14 comprehensive development agreement under this subchapter to  
15 provide a performance and payment bond or an alternative form of  
16 security in an amount sufficient to:

17 (1) ensure the proper performance of the agreement;  
18 and

19 (2) protect:  
20 (A) the authority; and  
21 (B) payment bond beneficiaries who have a direct  
22 contractual relationship with the private entity or a subcontractor  
23 of the private entity to supply labor or material.

24 (b) A performance and payment bond must be in an amount  
25 equal to the cost of constructing or maintaining the project.

26 (c) If an authority determines that it is impracticable for  
27 a private entity to provide security in the amount described by

1 Subsection (b), the authority shall set the amount of the bonds or  
2 the alternative forms of security.

3 (d) A payment or performance bond or alternative form of  
4 security is not required for the portion of an agreement that  
5 includes only design or planning services, the performance of  
6 preliminary studies, or the acquisition of real property.

7 (e) The amount of the payment security must not be less than  
8 the amount of the performance security.

9 Sec. 672.357. ALTERNATIVE SECURITY. (a) In addition to  
10 performance and payment bonds, an authority may require the  
11 following alternative forms of security in an amount equal to the  
12 cost of constructing or maintaining the project:

13 (1) a cashier's check drawn on a financial entity  
14 specified by the authority;

15 (2) a United States bond or note;

16 (3) an irrevocable bank letter of credit; or

17 (4) any other form of security determined suitable by  
18 the authority.

19 (b) An alternative form of security is not required for the  
20 portion of an agreement that includes only design or planning  
21 services, the performance of preliminary studies, or the  
22 acquisition of real property.

23 (c) An authority by rule shall prescribe requirements for  
24 alternative forms of security provided under this section.

25 Sec. 672.358. PROHIBITION ON TOLL ROAD OR TURNPIKE. An  
26 authority may not use a comprehensive development agreement to  
27 develop a toll road or turnpike.

1 [Sections 672.359-672.400 reserved for expansion]

2 SUBCHAPTER I. WITHDRAWAL AND DISSOLUTION

3 Sec. 672.401. WITHDRAWAL. A participating entity may  
4 withdraw from the authority if:

5 (1) the board agrees to the withdrawal;

6 (2) the governing body of each participating entity  
7 agrees to the withdrawal; and

8 (3) the authority has outstanding bonded  
9 indebtedness, but the debt holders agree in writing to the  
10 withdrawal.

11 Sec. 672.402. DISSOLUTION. An authority is dissolved if:

12 (1) the dissolution is approved by the board;

13 (2) the governing body of each participating entity  
14 agrees;

15 (3) all debts and other liabilities of the authority  
16 have been paid and discharged or adequate provision has been made  
17 for the payment of all debts and other liabilities;

18 (4) there are no suits pending against the authority,  
19 or adequate provision has been made for the satisfaction of any  
20 judgment, order, or decree that may be entered against it in any  
21 pending suit; and

22 (5) the authority has commitments from other  
23 governmental entities to assume jurisdiction of all authority  
24 property, including facilities and equipment.

25 SECTION 2. This Act takes effect immediately if it receives  
26 a vote of two-thirds of all the members elected to each house, as  
27 provided by Section 39, Article III, Texas Constitution. If this

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- 1 Act does not receive the vote necessary for immediate effect, this
- 2 Act takes effect September 1, 2007.