

1-1 By: Nelson, Brimer S.B. No. 1693
1-2 (In the Senate - Filed March 9, 2007; March 21, 2007, read
1-3 first time and referred to Committee on Natural Resources;
1-4 May 4, 2007, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; May 4, 2007, sent
1-6 to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1693 By: Seliger

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

1-10 relating to the creation of inland port authorities; providing
1-11 authority to impose a tax and issue bonds.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. The Business & Commerce Code is amended by adding
1-14 Title 15 to read as follows:

1-15 TITLE 15. CURRENCY AND TRADE

1-16 SUBTITLE A. CURRENCY

1-17 SUBTITLE B. PORT OF ENTRY AUTHORITIES

1-18 CHAPTER 672. INLAND PORT AUTHORITIES

1-19 SUBCHAPTER A. GENERAL PROVISIONS

1-20 Sec. 672.001. DEFINITIONS. In this chapter:

1-21 (1) "Authority" means an inland port authority created
1-22 under this chapter.

1-23 (2) "Board" means the board of directors of an
1-24 authority.

1-25 (3) "Bond" includes a bond, certificate, note, or
1-26 other obligation.

1-27 (4) "Inland port" means an area with direct access to
1-28 highway, rail, air transport, or intermodal facilities but located
1-29 away from traditional land and coastal borders.

1-30 (5) "Participating entity" means a municipality or
1-31 county creating an authority.

1-32 Sec. 672.002. NATURE OF INLAND PORT AUTHORITY. An
1-33 authority is a special district and a political subdivision of this
1-34 state created under Section 59, Article XVI, Texas Constitution.

1-35 Sec. 672.003. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

1-36 (a) An authority is created to serve a public use and benefit.

1-37 (b) All land and other property to be included in an
1-38 authority will benefit from the works and projects to be provided by
1-39 the authority under powers conferred by Sections 52 and 52-a,
1-40 Article III, and Section 59, Article XVI, Texas Constitution, and
1-41 other powers granted under this chapter.

1-42 (c) The creation of the authority is in the public interest
1-43 and is essential to:

1-44 (1) further the public purposes of developing and
1-45 diversifying the economy of the state;

1-46 (2) promote homeland security and protection;

1-47 (3) eliminate unemployment and underemployment; and

1-48 (4) develop or expand transportation and commerce.

1-49 (d) This chapter furthers the public purposes of developing
1-50 and diversifying the economy of this state by encouraging the
1-51 establishment of inland ports to facilitate commerce through:

1-52 (1) strategic investment in multi-modal
1-53 transportation assets; and

1-54 (2) comprehensive planning, development, management,
1-55 and operation of facilities and supporting infrastructure for:

1-56 (A) transportation;

1-57 (B) commercial processing; and

1-58 (C) domestic and international trade.

1-59 (e) The authority will not act as the agent or
1-60 instrumentality of any private interest even though the authority
1-61 will benefit many private interests as well as the public.

1-62 [Sections 672.004-672.050 reserved for expansion]

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SUBCHAPTER B. CREATION OF AUTHORITY

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

(1) does not include any residential property; and

(2) includes:

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

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

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

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

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

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

(2) executes an agreement to create the authority.

Sec. 672.054. HEARINGS. (a) Not earlier than the 60th day or later than the 30th day before the date the governing body of a participating entity proposes to create an authority under Section 672.053, the governing body must hold two hearings to consider the creation of the proposed authority.

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

(c) The notice must state:

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

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

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

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

Sec. 672.055. CREATION BY ORDER, ORDINANCE, OR RESOLUTION. (a) After all hearings, the governing bodies of the participating entities may by concurrent order, ordinance, or resolution create an authority.

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

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

(2) describe the authority's boundaries; and

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

[Sections 672.056-672.100 reserved for expansion]

SUBCHAPTER C. BOARD OF DIRECTORS; EMPLOYEES

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

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

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

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

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

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

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

Sec. 672.102. TERMS. The participating entities shall

3-1 appoint the directors to serve staggered four-year terms with as
3-2 near as possible to one-half of the directors' terms expiring every
3-3 two years.

3-4 Sec. 672.103. QUALIFICATIONS. (a) A director must reside
3-5 in the boundaries of one of the participating entities.

3-6 (b) An individual may not serve on the board if the
3-7 individual is:

3-8 (1) an elected official of any governmental entity; or

3-9 (2) an employee of a participating entity.

3-10 Sec. 672.104. MAJORITY VOTE; QUORUM. (a) The vote of a
3-11 majority attending a board meeting is necessary for any action
3-12 taken by the board.

3-13 (b) If a vacancy exists on a board, the majority of
3-14 directors serving on the board is a quorum.

3-15 Sec. 672.105. OFFICERS. (a) The board shall elect a
3-16 presiding officer and an assistant presiding officer.

3-17 (b) The assistant presiding officer presides in the absence
3-18 of the presiding officer.

3-19 (c) The board may elect other officers it considers
3-20 appropriate.

3-21 Sec. 672.106. COMPENSATION; EXPENSES. A director serves
3-22 without compensation but is entitled to reimbursement for actual
3-23 and necessary expenses.

3-24 Sec. 672.107. PROHIBITED CONDUCT FOR DIRECTORS AND
3-25 EMPLOYEES. An authority director or employee may not:

3-26 (1) accept or solicit any gift, favor, or service:

3-27 (A) that might reasonably influence the director
3-28 or employee in the discharge of an official duty; or

3-29 (B) that the director or employee knows or should
3-30 know is being offered with the intent to influence the director's or
3-31 employee's official conduct;

3-32 (2) accept other employment or engage in a business or
3-33 professional activity that the director or employee might
3-34 reasonably expect would require or induce the director or employee
3-35 to disclose confidential information acquired by reason of the
3-36 official position;

3-37 (3) make personal investments that could reasonably be
3-38 expected to create a substantial conflict between the director's or
3-39 employee's private interest and the interest of the authority;

3-40 (4) intentionally or knowingly solicit, accept, or
3-41 agree to accept any benefit for having exercised the director's or
3-42 employee's official powers or performed the director's or
3-43 employee's official duties in favor of another; or

3-44 (5) have a personal interest in an agreement executed
3-45 by the authority.

3-46 [Sections 672.108-672.150 reserved for expansion]

3-47 SUBCHAPTER D. POWERS AND DUTIES

3-48 Sec. 672.151. MUNICIPAL MANAGEMENT DISTRICT POWERS AND
3-49 DUTIES. An authority has the powers and duties applicable to a
3-50 municipal management district under Subchapter E, Chapter 375,
3-51 Local Government Code.

3-52 Sec. 672.152. RULES. An authority may adopt rules to govern
3-53 the operation of the authority, including rules relating to:

3-54 (1) its employees;

3-55 (2) its facilities;

3-56 (3) health, safety, and general welfare of persons and
3-57 property; and

3-58 (4) any other necessary matter concerning its
3-59 purposes.

3-60 Sec. 672.153. INLAND PORTS FACILITATION. An authority
3-61 shall facilitate and process national and international trade
3-62 through strategic investment in multi-modal transportation assets,
3-63 logistics systems, security processes, customs facilities, and
3-64 freight transfer equipment and by promoting value-added services as
3-65 goods move through the supply chain and into national and
3-66 international commerce.

3-67 Sec. 672.154. TRANSPORTATION PROJECTS; PUBLIC UTILITY
3-68 FACILITIES. (a) In this section:

3-69 (1) "Cogeneration facility" means a facility that

4-1 generates electricity and heat in a single thermodynamic process.

4-2 (2) "Inland port improvement or facility" means an
 4-3 improvement or facility necessary or convenient for the proper
 4-4 operation of an inland port and may include land and equipment that
 4-5 have development potential for industrial, distribution, and
 4-6 processing facilities that support the movement of goods in
 4-7 national and international commerce.

4-8 (3) "Intermodal hub" means a central location where
 4-9 cargo containers can be easily and quickly transferred between
 4-10 trucks, trains, and airplanes, including through the use of cranes,
 4-11 conveyors, side loaders, and other equipment for the automated or
 4-12 semi-automated movement of cargo.

4-13 (4) "Public utility facility" means:

4-14 (A) a water, wastewater, natural gas, or
 4-15 petroleum pipeline or associated equipment;

4-16 (B) an electric transmission or distribution
 4-17 line, a cogeneration facility, or associated equipment; or

4-18 (C) telecommunications information services, or
 4-19 cable television infrastructure or associated equipment, including
 4-20 fiber optic cable, conduit, and wireless communications
 4-21 facilities.

4-22 (5) "Spaceport" means a facility and related equipment
 4-23 for the development and deployment of commercial space activities,
 4-24 including suborbital space flights, space training programs, zero
 4-25 gravity flights, jet flight adventures, visitor centers and
 4-26 museums, and space camps.

4-27 (6) "Transportation project" means:

4-28 (A) a passenger or freight rail facility,
 4-29 including:

4-30 (i) railroad tracks;

4-31 (ii) a rail line;

4-32 (iii) switching, signaling, or other
 4-33 operating equipment;

4-34 (iv) a depot or other facility for
 4-35 receiving;

4-36 (v) a locomotive;

4-37 (vi) rolling stock;

4-38 (vii) cranes, conveyors, and other
 4-39 equipment for movement of freight, including containers;

4-40 (viii) security facilities for scanning,
 4-41 screening, and inspection of freight, trucks, railcars, and other
 4-42 means of containerized transport of freight;

4-43 (ix) a maintenance facility; and

4-44 (x) other real and personal property
 4-45 associated with a rail operation;

4-46 (B) a roadway with a functional classification
 4-47 greater than a local road or rural minor collector;

4-48 (C) an airport and facilities supporting and used
 4-49 in airport operations, including aircraft, runways, runway
 4-50 expansions or extensions, terminals, and air traffic control
 4-51 facilities;

4-52 (D) a spaceport;

4-53 (E) an intermodal hub;

4-54 (F) an automated conveyor belt for the movement
 4-55 of freight;

4-56 (G) a border crossing inspection station; or

4-57 (H) an inland port facility or improvement.

4-58 (b) An authority may acquire a transportation project or
 4-59 public utility facility, acquire property for a transportation
 4-60 project or public utility facility, and construct or improve a
 4-61 transportation project or public utility facility inside or, if
 4-62 contiguous to a project or facility inside the authority, outside
 4-63 the authority as necessary to ensure an adequate transportation or
 4-64 public utility infrastructure to support authority facilities or
 4-65 operations.

4-66 (c) An authority may finance a transportation project or
 4-67 public utility facility or construction, acquisition, or
 4-68 improvement of a transportation project or public utility facility
 4-69 from money available to the authority under this chapter.

5-1 Sec. 672.155. OWNERSHIP OF AUTHORITY PROJECTS. (a) A
 5-2 transportation project that is the subject of a development
 5-3 agreement with a private entity, including the facilities acquired
 5-4 or constructed on the project, is public property and belongs to the
 5-5 authority that entered into the agreement.

5-6 (b) An authority may enter into an agreement that provides
 5-7 for the lease of rights-of-way, the granting of easements, the
 5-8 issuance of franchises, concessions, licenses, or permits, or any
 5-9 lawful uses to enable a private entity to construct, occupy,
 5-10 operate, and maintain a transportation project, including
 5-11 supplemental facilities. At the termination of the agreement, the
 5-12 transportation project, including the facilities, must be in a
 5-13 state of proper maintenance as determined by the authority and
 5-14 returned to the authority in satisfactory condition at no further
 5-15 cost.

5-16 Sec. 672.156. PROPERTY. An authority may acquire,
 5-17 construct, complete, develop, finance, own, operate, maintain,
 5-18 lease, and sell any kind of property to any person for any authority
 5-19 purpose, including transportation projects, office buildings,
 5-20 warehouses, passenger and freight terminals, container examination
 5-21 stations, and any other facility necessary or useful to fulfilling
 5-22 the purposes of the authority.

5-23 Sec. 672.157. PURCHASE OF REAL PROPERTY. An authority may
 5-24 purchase an interest in real property to acquire, construct, or
 5-25 operate an authority facility on terms and at a price agreed to
 5-26 between the authority and the owner.

5-27 Sec. 672.158. CONVEYANCE OF PROPERTY. The governing body
 5-28 of a municipality, county, or other governmental entity may convey
 5-29 title or rights and easements to any property needed by the
 5-30 authority to effect its purposes.

5-31 Sec. 672.159. NO EMINENT DOMAIN POWER. An authority may not
 5-32 exercise the power of eminent domain.

5-33 Sec. 672.160. TRANSPORTATION PROJECT; CONSTRUCTION
 5-34 MANAGER-AT-RISK. (a) An authority may contract for the design and
 5-35 construction of a transportation project under Section 672.154 by a
 5-36 construction manager-at-risk procedure under which the
 5-37 construction manager-at-risk provides consultation to the
 5-38 authority during the design of the transportation project and is
 5-39 responsible for construction of the transportation project in
 5-40 accordance with the authority's specifications.

5-41 (b) The authority shall select the construction
 5-42 manager-at-risk on the basis of criteria established by the
 5-43 authority, which may include the construction manager-at-risk's
 5-44 experience, past performance, safety record, proposed personnel
 5-45 and methodology, proposed fees, and other appropriate factors that
 5-46 demonstrate the construction manager-at-risk's ability to provide
 5-47 the best value to the authority and to deliver the required services
 5-48 in accordance with the authority's specifications.

5-49 (c) The authority shall adopt rules governing the award of
 5-50 contracts using construction manager-at-risk procedures under this
 5-51 section.

5-52 (d) To the extent of a conflict between this section and
 5-53 another law, this section controls.

5-54 Sec. 672.161. LEASES. An authority may lease the use of any
 5-55 of its facilities or equipment. A lease term may not exceed 50
 5-56 years.

5-57 Sec. 672.162. AGREEMENTS. An authority may enter into an
 5-58 agreement with any person, including with the United States or any
 5-59 other governmental entity, for any authority purpose.

5-60 Sec. 672.163. JOINT ACTIONS. An authority may act jointly
 5-61 with any other person, private or public, inside or outside this
 5-62 state or the United States, in the performance of any power or duty
 5-63 under this chapter or other law.

5-64 Sec. 672.164. INSURANCE. (a) An authority may purchase
 5-65 and pay premiums to insurers for insurance of any type in amounts
 5-66 considered necessary or advisable by the board.

5-67 (b) An authority may purchase an additional insured
 5-68 provision to any liability insurance contract.

5-69 Sec. 672.165. PROMOTION AND ADVERTISING. An authority may

6-1 promote the use of an authority project, facility, or service,
6-2 including a project, facility, or service that it operates on
6-3 behalf of another entity or that another entity operates on behalf
6-4 of the authority, by appropriate means, including advertising or
6-5 marketing as the authority determines appropriate.

6-6 Sec. 672.166. SECURITY SERVICES. An authority may employ a
6-7 security officer who holds a peace officer license issued by the
6-8 Commission on Law Enforcement Officer Standards and Education.

6-9 Sec. 672.167. GRANTS; LOANS; DONATIONS. An authority may
6-10 accept a grant, loan, or donation from any person, including the
6-11 United States, this state, or a political subdivision of this
6-12 state.

6-13 Sec. 672.168. VENUE. An action against the authority must
6-14 be brought in the county in which the principal office of the
6-15 authority is located.

6-16 Sec. 672.169. CONSENT REQUIRED FOR CERTAIN POWERS. With
6-17 the consent of a municipality, county, or other political
6-18 subdivision, an authority may:

6-19 (1) use streets, alleys, roads, highways, and other
6-20 public ways of the municipality, county, or other political
6-21 subdivision; and

6-22 (2) relocate, raise, reroute, change the grade of, or
6-23 alter, at the expense of the authority, the construction of:

6-24 (A) a street, alley, highway, road, or railroad;

6-25 (B) electric lines and facilities;

6-26 (C) telegraph and telephone properties and
6-27 facilities;

6-28 (D) pipelines and facilities;

6-29 (E) conduits and facilities; and

6-30 (F) other property, whether publicly or
6-31 privately owned, as necessary or useful in the construction,
6-32 reconstruction, repair, maintenance, and operation of facilities.

6-33 Sec. 672.170. CONSENT OF TEXAS DEPARTMENT OF TRANSPORTATION
6-34 REQUIRED FOR HIGHWAY WORK. An authority may not alter a highway
6-35 that is part of the state highway system without the consent of the
6-36 Texas Department of Transportation.

6-37 Sec. 672.171. CONSENT OF RAILROAD REQUIRED. An authority
6-38 may not alter a railroad without consent of the railroad.

6-39 Sec. 672.172. NO RETAIL UTILITY SERVICES. An authority may
6-40 not provide retail utility services.

6-41 Sec. 672.173. NO DUPLICATION OF SERVICES OR FACILITY OF
6-42 PUBLIC ENTITY. An authority may not duplicate a service or facility
6-43 of another public entity.

6-44 [Sections 672.174-672.200 reserved for expansion]

6-45 SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

6-46 Sec. 672.201. RATES. An authority shall establish and
6-47 maintain commercially reasonable and nondiscriminatory rates,
6-48 rentals, fees, charges, or other compensation for the use of
6-49 facilities constructed, operated, regulated, or maintained by the
6-50 authority that are commercially reasonable and nondiscriminatory.

6-51 Sec. 672.202. REIMBURSEMENT TO AND PURCHASES FROM PRIVATE
6-52 ENTITIES. (a) An authority may reimburse a private entity for
6-53 money spent to improve facilities or other property in the
6-54 authority if the improvement will provide a public benefit or has
6-55 been or will be dedicated or otherwise transferred to public use.

6-56 (b) An authority may purchase any improvement to property
6-57 that has been or will be constructed by a private entity, regardless
6-58 of whether the construction occurs before or after the creation of
6-59 the authority.

6-60 Sec. 672.203. LIABILITIES. An authority may incur
6-61 liabilities, borrow money on terms the board determines, enter into
6-62 short-term borrowing and commercial paper transactions, and issue
6-63 bonds.

6-64 Sec. 672.204. CREDIT AGREEMENTS. An authority may enter
6-65 into credit agreements under Chapter 1371, Government Code.

6-66 Sec. 672.205. PROCUREMENT. (a) An authority shall adopt
6-67 rules governing the award of contracts through competitive
6-68 processes for goods and services.

6-69 (b) An authority may procure goods and services, including

7-1 materials, engineering, design, construction, operations,
7-2 maintenance, and other goods and services, through any procedure
7-3 authorized by this chapter.

7-4 (c) To the extent of a conflict between this section and any
7-5 other law, this section controls.

7-6 Sec. 672.206. DEPOSITORY OR TREASURER. (a) The board by
7-7 resolution shall designate a bank or banks as the authority's
7-8 depository.

7-9 (b) All authority money must be secured in the manner
7-10 provided for securing county funds.

[Sections 672.207-672.250 reserved for expansion]

SUBCHAPTER F. ASSESSMENTS AND IMPACT FEES

7-13 Sec. 672.251. GENERAL POWERS RELATING TO ASSESSMENTS AND
7-14 IMPACT FEES. An authority may impose assessments and impact fees
7-15 under Subchapters F and G, Chapter 375, Local Government Code.

7-16 Sec. 672.252. ADDITIONAL ASSESSMENT POWERS. In addition to
7-17 the powers granted under Subchapter F, Chapter 375, Local
7-18 Government Code, an improvement project undertaken by an authority
7-19 may include:

7-20 (1) the financing of any of the improvements described
7-21 in Section 375.112, Local Government Code; and

7-22 (2) the construction, financing, acquisition,
7-23 improvement, relocation, operation, maintenance, or provision of
7-24 an inland port facility or transportation project under Subchapter
7-25 D.

[Sections 672.253-672.300 reserved for expansion]

SUBCHAPTER G. AD VALOREM TAXES AND BONDS

7-28 Sec. 672.301. GENERAL BOND AUTHORITY. (a) Except as
7-29 otherwise provided by this subchapter, an authority may issue bonds
7-30 as provided by Subchapter J, Chapter 375, Local Government Code.

7-31 (b) Sections 375.207 and 375.208, Local Government Code, do
7-32 not apply to an authority.

7-33 Sec. 672.302. TAX AND BOND ELECTION. (a) The authority
7-34 may not issue bonds secured by taxes unless the issuance of the
7-35 bonds and the tax to source the bonds are approved at an election in
7-36 the authority held for that purpose.

7-37 (b) The authority may issue bonds not secured by taxes
7-38 without an election.

7-39 (c) The proposition submitted in the election must state:

7-40 (1) the purpose for which the bonds are to be issued;

7-41 (2) the amount of the bonds;

7-42 (3) the interest rate;

7-43 (4) the tax rate that will be imposed sufficient to pay
7-44 the annual interest on the bonds and to provide a sinking fund to
7-45 redeem the bonds at maturity; and

7-46 (5) the maturity date of the bonds or that the bonds
7-47 may be issued to mature serially over a specified number of years
7-48 not to exceed 40.

7-49 (d) In addition to the notice required by Section 4.003(c),
7-50 Election Code, the authority shall provide notice of the election
7-51 by:

7-52 (1) posting a substantial copy of the election order
7-53 at:

7-54 (A) three public places in the authority, which
7-55 may include the place for posting of official notices maintained by
7-56 one or more of the participating entities; and

7-57 (B) the authority's principal office; and

7-58 (2) publishing notice of the election in a newspaper
7-59 of general circulation published in the authority.

7-60 (e) The notice required by Subsection (d)(2) must be
7-61 published on the same day in each of two successive weeks. The
7-62 first publication must be not less than 14 days before the date of
7-63 the election.

7-64 (f) At the election, the ballots shall be printed to permit
7-65 voting for or against the proposition: "The issuance of bonds and
7-66 the imposition of taxes at (insert rate) to secure the bonds."

7-67 Sec. 672.303. AD VALOREM TAX AUTHORIZED; RATE. (a) The
7-68 authority may impose an ad valorem tax for any authority purpose if
7-69 a majority of the authority voters voting at an election called for

8-1 that purpose vote in favor of the tax.

8-2 (b) The authority's tax rate may not exceed:

8-3 (1) 10 cents on each \$100 valuation of all taxable
 8-4 property in the authority; or

8-5 (2) the highest ad valorem tax rate imposed by any of
 8-6 the participating entities.

8-7 (c) The authority shall publish notice and hold a hearing on
 8-8 the tax rate in the same manner as provided by Section 672.054.

8-9 (d) After setting the tax rate, the authority is governed by
 8-10 the provisions of the Tax Code governing ad valorem taxes of
 8-11 home-rule municipalities.

8-12 (e) The initial tax rate does not take effect until the tax
 8-13 year beginning on a date after the date of the initial meeting of
 8-14 the board or the tax year following the date the board sets the
 8-15 initial tax rate, whichever is later.

8-16 Sec. 672.304. CERTIFICATES OF OBLIGATION. An authority may
 8-17 issue certificates of obligation in the manner provided by
 8-18 Subchapter C, Chapter 271, Local Government Code.

8-19 Sec. 672.305. NO MUNICIPAL OR COUNTY OBLIGATION. Except as
 8-20 provided by Section 672.402, a participating entity is not
 8-21 obligated to pay any authority bonds.

8-22 Sec. 672.306. BONDS EXEMPT FROM TAXATION. Bonds issued
 8-23 under this chapter, the transfer of the bonds, and income from the
 8-24 bonds, including profits made on the sale of the bonds, are exempt
 8-25 from taxation in this state.

8-26 Sec. 672.307. APPLICATION OF OTHER LAW. Chapter 2007,
 8-27 Government Code, does not apply to a tax imposed by an authority.

8-28 [Sections 672.308-672.350 reserved for expansion]

8-29 SUBCHAPTER H. COMPREHENSIVE DEVELOPMENT AGREEMENTS

8-30 Sec. 672.351. COMPREHENSIVE DEVELOPMENT AGREEMENT DEFINED.
 8-31 A comprehensive development agreement is an agreement with a
 8-32 private entity that:

8-33 (1) at a minimum, provides for the design and
 8-34 construction of a project;

8-35 (2) may provide for the financing, acquisition,
 8-36 maintenance, or operation of the project; and

8-37 (3) provides that the project that is the subject of
 8-38 the agreement is public property and is owned by the authority.

8-39 Sec. 672.352. USE OF AGREEMENT. An authority may use a
 8-40 comprehensive development agreement to construct, maintain,
 8-41 repair, operate, extend, or expand an authority project.

8-42 Sec. 672.353. PROFESSIONAL AND CONSULTING SERVICES.
 8-43 (a) An authority may negotiate provisions relating to
 8-44 professional and consulting services provided in connection with a
 8-45 comprehensive development agreement.

8-46 (b) Chapter 2254, Government Code, does not apply to a
 8-47 comprehensive development agreement entered into under this
 8-48 subchapter.

8-49 Sec. 672.354. PROCESS; BEST VALUE; RULES. (a) If an
 8-50 authority enters into a comprehensive development agreement, the
 8-51 authority shall use a competitive procurement process that provides
 8-52 the best value for the authority.

8-53 (b) An authority shall adopt rules, procedures, and other
 8-54 guidelines governing selection and negotiations to promote
 8-55 fairness, obtain private participants in authority projects, and
 8-56 promote confidence among those participants.

8-57 (c) The rules must contain criteria relating to the
 8-58 qualifications of the participants and the award of the contracts.
 8-59 An authority shall make those rules or policies publicly available
 8-60 prior to commencing any procurement.

8-61 Sec. 672.355. CONFIDENTIALITY OF NEGOTIATIONS FOR
 8-62 COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) The following
 8-63 information is confidential, is not subject to disclosure,
 8-64 inspection, or copying under Chapter 552, Government Code, and is
 8-65 not subject to disclosure, discovery, subpoena, or other means of
 8-66 legal compulsion for its release until a final agreement for a
 8-67 proposed project is entered into:

8-68 (1) all or part of a proposal submitted by a private
 8-69 entity for a comprehensive development agreement, except

9-1 information that a private entity agrees may be made public;
 9-2 (2) supplemental information or material submitted by
 9-3 a private entity in connection with a proposal for a comprehensive
 9-4 development agreement; and
 9-5 (3) information created or collected by an authority
 9-6 or its agent during consideration of a proposal for a comprehensive
 9-7 development agreement.
 9-8 (b) After an authority completes its final ranking of
 9-9 proposals, the final rankings of each proposal under each of the
 9-10 published criteria are not confidential.
 9-11 Sec. 672.356. PERFORMANCE AND PAYMENT SECURITY. (a) An
 9-12 authority shall require a private entity entering into a
 9-13 comprehensive development agreement under this subchapter to
 9-14 provide a performance and payment bond or an alternative form of
 9-15 security in an amount sufficient to:
 9-16 (1) ensure the proper performance of the agreement;
 9-17 and
 9-18 (2) protect:
 9-19 (A) the authority; and
 9-20 (B) payment bond beneficiaries who have a direct
 9-21 contractual relationship with the private entity or a subcontractor
 9-22 of the private entity to supply labor or material.
 9-23 (b) A performance and payment bond must be in an amount
 9-24 equal to the cost of constructing or maintaining the project.
 9-25 (c) If an authority determines that it is impracticable for
 9-26 a private entity to provide security in the amount described by
 9-27 Subsection (b), the authority shall set the amount of the bonds or
 9-28 the alternative forms of security.
 9-29 (d) A payment or performance bond or alternative form of
 9-30 security is not required for the portion of an agreement that
 9-31 includes only design or planning services, the performance of
 9-32 preliminary studies, or the acquisition of real property.
 9-33 (e) The amount of the payment security must not be less than
 9-34 the amount of the performance security.
 9-35 Sec. 672.357. ALTERNATIVE SECURITY. (a) In addition to
 9-36 performance and payment bonds, an authority may require the
 9-37 following alternative forms of security in an amount equal to the
 9-38 cost of constructing or maintaining the project:
 9-39 (1) a cashier's check drawn on a financial entity
 9-40 specified by the authority;
 9-41 (2) a United States bond or note;
 9-42 (3) an irrevocable bank letter of credit; or
 9-43 (4) any other form of security determined suitable by
 9-44 the authority.
 9-45 (b) An alternative form of security is not required for the
 9-46 portion of an agreement that includes only design or planning
 9-47 services, the performance of preliminary studies, or the
 9-48 acquisition of real property.
 9-49 (c) An authority by rule shall prescribe requirements for
 9-50 alternative forms of security provided under this section.
 9-51 Sec. 672.358. PROHIBITION ON TOLL ROAD OR TURNPIKE. An
 9-52 authority may not use a comprehensive development agreement to
 9-53 develop a toll road or turnpike.
 9-54 [Sections 672.359-672.400 reserved for expansion]
 9-55 SUBCHAPTER I. WITHDRAWAL AND DISSOLUTION
 9-56 Sec. 672.401. WITHDRAWAL. A participating entity may
 9-57 withdraw from the authority if:
 9-58 (1) the board agrees to the withdrawal;
 9-59 (2) the governing body of each participating entity
 9-60 agrees to the withdrawal; and
 9-61 (3) the authority has outstanding bonded
 9-62 indebtedness, but the debt holders agree in writing to the
 9-63 withdrawal.
 9-64 Sec. 672.402. DISSOLUTION. An authority is dissolved if:
 9-65 (1) the dissolution is approved by the board;
 9-66 (2) the governing body of each participating entity
 9-67 agrees;
 9-68 (3) all debts and other liabilities of the authority
 9-69 have been paid and discharged or adequate provision has been made

10-1 for the payment of all debts and other liabilities;
10-2 (4) there are no suits pending against the authority,
10-3 or adequate provision has been made for the satisfaction of any
10-4 judgment, order, or decree that may be entered against it in any
10-5 pending suit; and

10-6 (5) the authority has commitments from other
10-7 governmental entities to assume jurisdiction of all authority
10-8 property, including facilities and equipment.

10-9 SECTION 2. This Act takes effect immediately if it receives
10-10 a vote of two-thirds of all the members elected to each house, as
10-11 provided by Section 39, Article III, Texas Constitution. If this
10-12 Act does not receive the vote necessary for immediate effect, this
10-13 Act takes effect September 1, 2007.

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