

GOVERNMENT CODE
CHAPTER 1232. TEXAS PUBLIC FINANCE AUTHORITY
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1232.001. SHORT TITLE. This chapter may be cited as the Texas Public Finance Authority Act.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.002. PURPOSE. The purpose of this chapter is to provide a method of financing for:

- (1) the acquisition or construction of buildings; and
- (2) the purchase or lease of equipment by executive or judicial branch state agencies.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 646, Sec. 1, eff. Sept. 1, 2001.

Sec. 1232.003. DEFINITIONS. In this chapter:

(1) "Authority" means the Texas Public Finance Authority.

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

(3) "Building" means:

- (A) a structure used by a state agency to conduct state business; and

- (B) the major equipment or personal property related functionally to a structure used by a state agency to conduct state business.

(4) "Commission" means the Texas Building and Procurement Commission.

(5) "Computer equipment" means a telecommunications device or system, an automated information system, a computer on which an information system is automated, and computer software.

(6) "Construction" means the erection, improvement, repair, renovation, or remodeling of a building.

(7) "Equipment" means a fixed asset, other than land or a building, used by a state agency to conduct state business. The term includes computer equipment.

(8) "Obligation" means a bond, note, certificate of participation, certificate of obligation, or interest in a contract.

(9) "State agency" means a board, commission, department, office, agency, institution of higher education, or other governmental entity in the executive, judicial, or legislative branch of state government.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 1.01, eff. Sept. 1, 2001.

Sec. 1232.004. STATE LEASE FUND ACCOUNT. (a) The state lease fund account is an account in the general revenue fund and may be used only for a purpose designated by law.

(b) The state lease fund account may be used to finance an appropriation to the commission or a state agency or directly to the authority on behalf of a state agency to pay required rents, fees, and installments to the authority.

(c) After all obligations have been paid or provided for, the legislature may transfer money deposited in the state lease fund account to the Texas capital trust fund account for other purposes.

(d) The amount in the state lease fund account that is in excess of amounts needed for debt service and is unencumbered shall be transferred at the end of each biennium to the undedicated portion of the general revenue fund.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.005. APPLICATION OF STATE FUNDS REFORM ACT. All money paid to the authority under this chapter is subject to Subchapter F, Chapter 404.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. TEXAS PUBLIC FINANCE AUTHORITY

Sec. 1232.051. TEXAS PUBLIC FINANCE AUTHORITY. The Texas Public Finance Authority is a public authority and a body politic and corporate.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.052. COMPOSITION OF GOVERNING BOARD. (a) The authority is governed by a board of directors composed of seven members appointed by the governor with the advice and consent of the senate.

(b) A person is not eligible for appointment as a member of

the board if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the authority;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the authority; or

(3) uses or receives a substantial amount of tangible goods, services, or funds from the authority, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

(c) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 646, Sec. 2, eff. Sept. 1, 2001.

Sec. 1232.053. TERMS. Members of the board are appointed for staggered terms of six years, with two or three members' terms expiring February 1 of each odd-numbered year.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 646, Sec. 3, eff. Sept. 1, 2001.

Sec. 1232.054. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the board that a member:

(1) violates a prohibition established by Section 1232.060;

(2) cannot because of illness or disability discharge the member's duties for a substantial part of the term for which the member is appointed; or

(3) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) If the executive director of the authority has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the assistant presiding officer, who shall notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.055. BOARD MEMBER TRAINING. (a) To be eligible to take office as a member of the board, a person appointed to the board must complete at least one course of a training program that complies with this section.

(b) The training program must provide information to the person regarding:

(1) the enabling legislation that created the authority and the board;

(2) the programs operated by the authority;

(3) the role and functions of the authority;

(4) the rules of the authority, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the authority;

(6) the results of the most recent formal audit of the authority;

(7) the requirements of the:

(A) open meetings law, Chapter 551;

(B) public information law, Chapter 552; and

(C) administrative procedure law, Chapter 2001;

(8) the requirements of the conflict of interest laws and other laws relating to public officials; and

(9) any applicable ethics policies adopted by the authority or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement for travel expenses incurred in attending the training program, as provided by the General Appropriations Act and as if the person were a member of the board.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.056. OFFICERS; MEETINGS. (a) The governor shall designate a member of the board as the presiding officer to serve in that capacity at the pleasure of the governor. The board biennially shall elect an assistant presiding officer from its members.

(b) The board shall meet at least once in each calendar quarter and shall meet at other times at the call of the presiding officer or as prescribed by board rule.

(c) A subcommittee of the board, appointed by the board as provided by Section 1371.053(c)(2), is not subject to Chapter 551 when it is acting to price and sell the obligations of the authority in accordance with parameters for the issuance established by the board.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.005(a), eff. Sept. 1, 2001.

Sec. 1232.057. PUBLIC TESTIMONY AT BOARD MEETINGS. The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the authority.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.058. COMPENSATION AND EXPENSES. A board member is entitled to:

(1) a per diem of \$50, unless otherwise specified in the General Appropriations Act, for each day the member performs functions as a board member; and

(2) reimbursement for actual and necessary expenses that the member incurs in performing board functions.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.059. STAFF; CONSULTANTS. (a) The board shall employ persons and contract with consultants necessary for the board to perform its functions.

(b) Employees of the authority are considered to be state employees.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.060. CONFLICT OF INTEREST. (a) An officer, employee, or paid consultant of a Texas trade association in the field of public finance may not be a member of the board or an employee of the authority who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule.

(b) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of public finance may not be a member of the board and may not be an employee of the authority who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule.

(c) For the purposes of this section, a Texas trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(d) A person may not serve as a member of the board or act as the general counsel to the board or the authority if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the authority.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.061. INFORMATION ON RESPONSIBILITIES OF BOARD MEMBERS AND EMPLOYEES. The executive director of the authority or the executive director's designee shall provide to members of the board and to authority employees, as often as necessary, information regarding their qualification for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.062. SEPARATION OF POLICYMAKING AND MANAGEMENT RESPONSIBILITIES. The board shall develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the executive director and the staff of the authority.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.063. EQUAL EMPLOYMENT OPPORTUNITY. (a) The

executive director of the authority or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that are in compliance with requirements of Chapter 21, Labor Code;

(2) a comprehensive analysis of the authority workforce that meets federal and state guidelines;

(3) procedures by which a determination can be made about the extent of underuse in the authority workforce of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of underuse.

(b) A policy statement prepared under Subsection (a) must cover an annual period, be updated annually and reviewed by the Commission on Human Rights for compliance with Subsection (a)(1), and be filed with the governor's office.

(c) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (b). The report may be made separately or as a part of other biennial reports made to the legislature.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.064. CAREER LADDER; EMPLOYEE PERFORMANCE EVALUATIONS. (a) The executive director of the authority or the executive director's designee shall develop an intra-agency career ladder program that addresses opportunities for mobility and advancement for employees within the authority. The program shall require intra-agency posting of all positions concurrently with any public posting.

(b) The executive director of the authority or the executive director's designee shall develop a system of annual performance evaluations that are based on documented employee performance. All merit pay for authority employees must be based on the system established under this subsection.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.065. COMPLIANCE WITH LAWS RELATING TO ACCESSIBILITY. The authority shall comply with federal and state laws related to program and facility accessibility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.066. BOARD AUTHORITY. (a) The board's authority under this chapter is limited to the financing of:

(1) the acquisition or construction of a building;

(2) the purchase or lease of equipment; or

(3) stranded costs of a municipal power agency.

(b) The board's authority does not affect the authority of the commission or any other state agency.

(c) Buildings and equipment financed by the authority under this chapter do not become part of other property to which they may be attached or into which they may be incorporated, without regard to whether the other property is real or personal.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.006(a), eff. Sept. 1, 2001.

Sec. 1232.067. GENERAL POWERS. The board may:

(1) exercise, to the extent practicable, all powers given to a corporation under the general laws of the state;

(2) have perpetual succession by its corporate name;

(3) sue and be sued in its corporate name;

(4) adopt a seal for use as the board considers appropriate;

(5) accept gifts; and

(6) adopt rules and perform all functions reasonably necessary for the board to administer its functions prescribed by this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.068. EMINENT DOMAIN. The authority may exercise the power of eminent domain for the purposes set forth in this chapter in connection with the acquisition or construction of a building that is authorized as provided by Section 1232.108.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.069. ANNUAL FINANCIAL REPORT. The board, authority, or executive director of the authority shall prepare annually a complete and detailed written report accounting for all funds received and disbursed by the authority during the preceding fiscal year. The annual report must meet the reporting requirements applicable to financial reporting provided in the General Appropriations Act.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.070. INFORMATION ON COMPLAINTS. (a) The authority shall keep a file about each written complaint filed with the authority that the authority has authority to resolve. The authority shall provide to the person filing the complaint and the persons complained about the authority's policies and procedures relating to complaint investigation and resolution. The authority, at least quarterly and until final disposition of the complaint, shall notify the person filing the complaint and the persons complained about of the status of the complaint unless the notice would jeopardize an undercover investigation.

(b) The authority shall keep information about each complaint filed with the authority. The information must include:

- (1) the date the complaint is received;
- (2) the name of the complainant;
- (3) the subject matter of the complaint;
- (4) a record of all persons contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and
- (6) for complaints for which the authority took no action, an explanation of the reason the complaint was closed without action.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.071. RELATIONSHIP TO PREVIOUS BOARD. (a) The Texas Public Finance Authority owns the property formerly owned by, and is the successor to each lease or rental contract entered into by, the Texas Public Building Authority created by Chapter 700, Acts of the 68th Legislature, Regular Session, 1983.

(b) An obligation contracted or assumed by the Texas Public Building Authority with respect to a property or contract described by Subsection (a) is an obligation of the Texas Public Finance Authority.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.072. SUNSET PROVISION. The Texas Public Finance Authority is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the authority is abolished and this chapter expires September 1, 2009.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER C. OBLIGATIONS

Sec. 1232.101. ISSUANCE OF BONDS FOR CERTAIN STATE AGENCIES. With respect to all bonds authorized to be issued by the Texas Military Facilities Commission, Texas National Research Laboratory Commission, Parks and Wildlife Department, Texas Low-Level Radioactive Waste Disposal Authority, Stephen F. Austin State University, Midwestern State University, and Texas Southern University, the authority has the exclusive authority to act on behalf of those entities in issuing bonds on their behalf. In connection with those issuances and with the issuance of refunding bonds on behalf of those entities, the authority is subject to all rights, duties, and conditions surrounding issuance previously applicable to the issuing entity under the statute authorizing the issuance. A reference in an authorizing statute to the entity on whose behalf the bonds are being issued applies equally to the authority in its capacity as issuer on behalf of the entity.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 646, Sec. 4, eff. Sept. 1, 2001.

Sec. 1232.102. ISSUANCE OF BONDS FOR STATE OFFICE BUILDINGS. (a) The board may issue and sell bonds in the name of the authority to finance the acquisition or construction of buildings. After receiving a request described by Section 2166.452, the board may issue bonds in amounts not exceeding the previously authorized amount of bonds plus five percent of the acquisition cost of the property, as described in the request.

(b) The board shall promptly issue and sell bonds in the name of the authority under this chapter to finance the acquisition or construction of a building that has been authorized in

accordance with this chapter or under Section 2166.452 or 2166.453.

(c) The commission or other state agency involved in acquiring or constructing a building financed by bonds issued under this chapter shall accomplish its statutory authority as if the building were financed by legislative appropriation. The board and the commission or other state agency involved in the acquisition or construction of a building shall adopt a memorandum of understanding that defines the division of authority between the board and the commission or other agency.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 646, Sec. 5, eff. Sept. 1, 2001.

Sec. 1232.103. ISSUANCE OF OBLIGATIONS FOR EQUIPMENT. (a) The authority may issue and sell obligations for the financing of:

(1) a lease or other agreement that concerns equipment that an executive or judicial branch state agency has purchased or leased or intends to purchase or lease; or

(2) a package of agreements described by Subdivision (1) that involves one or more state agencies.

(b) An obligation issued by the authority is payable under an agreement that may be in the nature of:

(1) a lease under which the authority leases equipment from a vendor for sublease to the commission or another state agency;

(2) a purchase by the authority of equipment and the lease of that equipment to either:

(A) the commission for the benefit of a state agency; or

(B) a state agency other than the commission;

(3) a purchase by the authority of equipment and the sale of that equipment to a state agency on an installment payment basis; or

(4) any similar agreement.

(c) If an agreement is between the authority and a state agency or between a vendor and a state agency, the commission shall nevertheless perform its functions as purchasing agent for the state, with the funds obtained under this section used solely to finance the agreement. The board and the commission shall adopt a memorandum of understanding that defines the division of authority between the board and the commission.

(d) A state agency may enter into a type of agreement described by this section to purchase or lease necessary equipment.

(e) If a law requires a state agency to obtain the approval of another state agency or perform any other act before the agency may purchase or lease computer equipment, those requirements must be satisfied before the agency may enter into an agreement under this chapter. The authority shall adopt rules so that computer equipment may not be financed before the authority receives written proof that the requirements have been satisfied.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.104. ISSUANCE OF OBLIGATIONS FOR ALTERNATIVE FUEL PROJECTS. (a) If the authority determines that a project is financially viable and sufficient revenue is or will be available, the authority may issue and sell obligations the proceeds of which shall be used for the financing of:

(1) the conversion of state agency vehicles and other sources of substantial energy output to an alternative fuel under Subchapter A, Chapter 2158;

(2) the construction, acquisition, or maintenance by the commission of fueling stations supplying alternative fuels or equipment enhancing the use of engine-driven technology to support state agency vehicles and other energy applications that use an alternative fuel;

(3) the conversion of school district motor vehicles and other sources of substantial energy output to an alternative fuel;

(4) the construction, acquisition, or maintenance by a school district of fueling stations supplying alternative fuels or equipment enhancing the use of engine-driven technology to support school district motor vehicles and other energy applications that use an alternative fuel;

(5) the conversion of local mass transit authority or department motor vehicles and other sources of substantial energy output to an alternative fuel;

(6) the construction, acquisition, or maintenance of

fueling stations supplying alternative fuels or equipment enhancing the use of engine-driven technology by a local mass transit authority or department to support transit authority or department vehicles and other energy applications that use an alternative fuel;

(7) the conversion of motor vehicles and other sources of substantial energy output of a local government to an alternative fuel;

(8) the conversion of motor vehicles and other sources of substantial energy output of a hospital district or authority, a housing authority, or a district or authority created under Section 52, Article III, Texas Constitution, or Section 59, Article XVI, Texas Constitution, to an alternative fuel;

(9) the construction, acquisition, or maintenance of fueling stations supplying alternative fuels or equipment enhancing the use of engine-driven technology to support motor vehicles and other energy applications that use an alternative fuel by a county, a municipality, or an entity described by Subdivision (8); or

(10) a joint venture between the private sector and a state agency or political subdivision that is required under law to use an alternative fuel in the agency's or subdivision's vehicles or other energy applications to:

(A) convert vehicles or other sources of substantial energy output to an alternative fuel;

(B) develop fueling stations and resources for the supply of alternative fuels and engine-driven applications;

(C) aid in the distribution of alternative fuels; and

(D) engage in other projects to facilitate the use of alternative fuels.

(b) The board may provide for the payment of the principal of or interest on an obligation issued under this section:

(1) by pledging all or a part of the revenue the state derives from the sale of alternative fuel, alternative fuel equipment or technology, or vehicles powered by an alternative fuel;

(2) by contracting with a political subdivision or a private entity to pledge revenue the political subdivision or private entity derives from the sale of alternative fuel, alternative fuel equipment or technology, or vehicles powered by an alternative fuel in an amount sufficient to ensure that the obligations are paid;

(3) by pledging appropriated general revenues of the state or other appropriated money in the state treasury; or

(4) from any other source of funds available to the board.

(c) The authority shall attempt to:

(1) include minority-owned businesses in the issuance and underwriting of at least 20 percent of the obligations issued under this section; and

(2) include women-owned businesses in the issuance and underwriting of at least 10 percent of the obligations issued under this section.

(d) Costs of administering the alternative fuel finance program shall be considered a part of project costs and shall be funded with proceeds of the obligations.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2005, 79th Leg., ch. 864, Sec. 4, eff. Sept. 1, 2005.

Sec. 1232.105. AGGREGATE LIMIT ON ISSUANCE OF OBLIGATIONS FOR ALTERNATIVE FUEL PROJECTS. The authority may not issue and sell more than \$50 million in obligations for projects under Section 1232.104.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.106. EVALUATION OF APPLICATION FOR ASSISTANCE WITH ALTERNATIVE FUEL PROJECTS. (a) The Alternative Fuels Council shall evaluate an application by an eligible entity for the financing under Section 1232.104 of the acquisition, construction, or improvement of alternative fuels infrastructure and shall determine whether the proposed project will increase energy or cost savings to the applicant.

(b) The authority may not issue an obligation under Section 1232.104 unless the Alternative Fuels Council certifies that the proposed project will increase energy or cost savings to the

applicant.

(c) The Alternative Fuels Council by rule may adopt procedures and standards for the evaluation of an application for the financing of a proposed project under Section 1232.104.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.107. PURCHASE OF OBLIGATIONS FOR ALTERNATIVE FUEL PROJECTS. (a) The authority may use the proceeds of obligations issued under Section 1232.104 to purchase, at a price determined by the authority, an obligation of an entity described by Section 1232.104(a) that evidences the entity's obligation to repay the authority. Notwithstanding any other law, the authority may acquire an obligation of an entity described by Section 1232.104(a) in a private sale as provided by resolution or order of the governing body of the entity.

(b) An entity described by Section 1232.104(a) may borrow from the authority by selling an obligation to the authority.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.1071. ISSUANCE OF OBLIGATIONS FOR FINANCING STRANDED COSTS OF MUNICIPAL POWER AGENCY. (a) The authority may, either directly or by means of a trust or trusts established by it, issue obligations or other evidences of indebtedness for financing stranded costs of a municipal power agency created by concurrent resolution by its member cities on or before November 1, 1979, pursuant to Chapter 163, Utilities Code, or a predecessor statute to that chapter. The stranded costs of the municipal power agency are set forth as allocated to the member cities in the "Potentially Strandable Investment (ECOM) Report: 1998 Update" issued by the Public Utility Commission of Texas.

(b) At the request of any member city of a municipal power agency, the authority shall issue obligations or other evidences of indebtedness in the amount of the requesting member city's stranded costs, plus the sum of the costs described in Subdivision (1) and the issuance costs, and shall make a grant of the proceeds of the obligations or evidences of indebtedness to the municipal power agency. A member city's request under this subsection must include a statement of the payment terms for recovering stranded costs. A grant of the proceeds of obligations or evidences of indebtedness is subject to the following conditions:

(1) the municipal power agency shall use the grant to reduce the outstanding principal of the agency's debts allocable to stranded costs of the requesting member city for federal income tax purposes, whether by redemption, defeasance, or tender offer, together with any interest expenses, call premium, tender premium, or administrative expenses associated with the principal payment; and

(2) the municipal power agency shall reduce the amount payable by the requesting member city under its power sales contract with the agency to reflect the reduced debt service on the agency's debt as a result of the payments made under Subdivision (1).

(c) Obligations or evidences of indebtedness issued by the authority under this section must be secured by nonbypassable charges imposed by the authority on retail customers receiving transmission and distribution services provided by the requesting member city, which must be consistent with the stranded cost recovery terms stated in the member city's request unless otherwise approved by the member city. Obligations or evidences of indebtedness issued by the authority under this section are not a debt of this state, the municipal power agency, or any member of the municipal power agency.

(d) The Public Utility Commission of Texas shall provide necessary assistance to the authority to ensure the collection and enforcement of the nonbypassable charges, whether directly or by using the assistance and powers of the requesting member city.

(e) The authority and the Public Utility Commission of Texas have all powers necessary to perform the duties and responsibilities described by this section. This section shall be interpreted broadly in a manner consistent with the most cost-effective financing of stranded costs. To the extent possible, obligations or evidences of indebtedness issued by the authority under this section must be structured so that any interest on the obligations or evidences of indebtedness is excluded from gross income for federal income tax purposes. Any interest on the obligations or evidences of indebtedness is not subject to taxation by and may not be included as part of the

measurement of a tax by this state or a political subdivision of this state.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 8.007(a), eff. Sept. 1, 2001.

Sec. 1232.108. LEGISLATIVE AUTHORIZATION REQUIRED. Except as permitted by Section 1232.109, 2166.452, or 2166.453, before the board may issue and sell bonds, the legislature by the General Appropriations Act or other law must have authorized:

(1) the specific project for which the bonds are to be issued and sold; and

(2) the estimated cost of the project or the maximum amount of bonded indebtedness that may be incurred by the issuance and sale of bonds for the project.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.109. AUTHORIZATION TO PURCHASE CERTAIN REAL PROPERTY. (a) Because there is a continued need to acquire real property in or in the immediate vicinity of state office building complexes for the continued operation of state government, because prices and values of real property periodically fluctuate, and because the state must be able to respond to rapidly changing market conditions to acquire real property at substantial savings to taxpayers, the commission may purchase and renovate real property located, in whole or in part, within 1,000 feet of:

(1) the Capitol Complex in Travis County; or

(2) the John H. Winters Human Services Complex in Travis County.

(b) The commission may contract as necessary to accomplish the purposes stated in Subsection (a). The estimated cost of the project is \$10 million. Before purchasing property under this section, the commission must determine that the purchase would be in the state's best interest.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.110. SPECIFIC PROJECTS. The board may issue bonds under Section 1232.102 for the following projects:

Project	Estimated Cost
State Board of Insurance Building in Travis County; facilities associated with relocation of the State Aircraft Pooling Board (not to exceed an estimated amount of \$7,000,000); and the acquisition and development of acreage at Robert Mueller Municipal Airport for a state complex (not to exceed an estimated amount of \$41,000,000)	\$59,937,000
Laboratory and Office Facilities for the Texas Department of Health	\$42,300,000
Parking facilities for state officers and employees to be built on state parking Lot 20 and for visitors to the Capitol Complex to be built on state parking Lot 17	\$29,500,000
Construction or purchase and renovation of a building or buildings by the commission in Tarrant County	\$10,000,000
Construction or purchase and renovation of a building or buildings by the commission in Harris County	\$20,000,000

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 646, Sec. 6, eff. Sept. 1, 2001.

Sec. 1232.111. CERTAIN PROJECTS BY TEXAS DEPARTMENT OF TRANSPORTATION. (a) The authority may issue and sell obligations to finance one or more projects described by Section 201.1055(a), Transportation Code. Notwithstanding Section 1232.108(2), the estimated cost of the project must be specified in the General

Appropriations Act or other law.

(b) Any provision of this chapter that relates to the issuance or sale of obligations to finance the acquisition or construction of a building, including provisions relating to form, procedure, repayment, actions that may be taken to ensure that the payment of the principal of and interest on the obligations is continued without interruption, and other relevant matters, applies to the issuance or sale of obligations under this section to the extent that the provision may be appropriately made applicable.

(c) The legislature may appropriate money from any available source, including the state highway fund, to the Texas Department of Transportation to make lease payments to the authority for space occupied by the department in a building acquired or constructed under Section 201.1055(a), Transportation Code.

Added by Acts 2005, 79th Leg., ch. 281, Sec. 2.90, eff. June 14, 2005.

Sec. 1232.1115. CERTAIN CONSTRUCTION AND REPAIR PROJECTS AND EQUIPMENT PURCHASES; GENERAL OBLIGATION BONDS. (a) The authority has the exclusive power to issue general obligation bonds under Section 50-f, Article III, Texas Constitution. The board shall issue the bonds in a cumulative amount not to exceed \$850 million for:

(1) construction or repair projects in or outside Travis County that are administered by or on behalf of a state agency listed in Section 50-f, Article III, Texas Constitution, and authorized by the legislature in accordance with Section 1232.108; or

(2) the purchase of needed equipment by or on behalf of such an agency, and authorized by the legislature by the General Appropriations Act or other law.

(b) The board shall provide for, issue, and sell the bonds in accordance with Section 50-f, Article III, Texas Constitution, and this chapter. Proceeds from the sale of the bonds shall be invested as provided by this chapter.

(c) Proceeds from the sale of the bonds may be spent on an authorized project or for the purchase of needed equipment only in accordance with the legislative appropriation of the proceeds.

Added by Acts 2001, 77th Leg., ch. 565, Sec. 1, eff. Nov. 6, 2001.

Sec. 1232.112. BOND REVIEW BOARD APPROVAL. (a) The authority may not issue obligations until the Bond Review Board has approved the issuance under Chapter 1231.

(b) The Bond Review Board may not approve a bond issue unless a project analysis is submitted for approval as provided by Section 1232.114.

(c) Refunding obligations of the authority must be approved by the Bond Review Board.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.113. OBLIGATION ISSUANCE ORIENTATION; INFORMATION TO AND FROM CLIENT AGENCIES. (a) In this section, "client agency" means a state agency on whose behalf the board may issue obligations.

(b) The authority shall develop an orientation to the obligation issuance process for the authority's client agencies.

(c) The orientation must include:

(1) information explaining the obligation issuance process in plain language; and

(2) an orientation meeting to be held before the issuance process begins.

(d) As part of the orientation, a client agency shall provide to the authority:

(1) detailed information concerning the project for which obligations are to be issued;

(2) a description of the legislative authority for the issuance of the obligations; and

(3) the names of employees of the client agency who are designated to work with the authority in connection with the project.

(e) The authority shall prepare information of interest to the authority's client agencies describing the functions of the authority and the procedures by which complaints are filed with and resolved by the authority. The authority shall make the information available to its client agencies.

(f) The board by rule shall establish methods by which client agencies are notified of the name, mailing address, and

telephone number of the authority for the purpose of directing complaints to the authority. The board may provide for that notification on a form provided to a client agency during the orientation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.114. PROJECT ANALYSIS. (a) When the authority submits its application for approval of a bond issue to the Bond Review Board, the agency or institution that will use the project to be financed by the bonds shall submit to the Bond Review Board a project analysis of the project. The project analysis must be in the form required for a project analysis requested from the commission under Sections 2166.151-2166.155.

(b) This section does not apply to a minor renovation, repair, or construction project of the institutional division of the Texas Department of Criminal Justice as defined by the division in cooperation with the commission. Instead of submitting a project analysis, the division may substitute the master plan required to be submitted by Section 1401.121 if the master plan contains information substantially equivalent to the information required to be in a project analysis under Sections 2166.151-2166.155.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.115. EXPENSES INCLUDED IN PRINCIPAL AMOUNT. (a) The principal amount of obligations may include amounts required to pay required reserve funds, capitalized interest, the authority's administrative costs, issuing expenses, and other expenses associated with the authority's issuance and sale of the obligations.

(b) The principal amount of obligations issued to finance the purchase of computer equipment that is the subject of a contingent appropriation under Subchapter B, Chapter 317, must be sufficient to cover any payments of principal and interest that must occur during the remainder of the biennium after the obligations are issued.

(c) Because of the expenses specified by Subsection (a) and because the cost estimates for acquisition, construction, repair, or renovation of a project cannot be finally determined at the time the project is authorized for financing, the principal amount of any issuance of obligations may be an amount not to exceed 150 percent of the amount of the estimated cost for the project being financed.

(d) Costs and expenses authorized by this section may not be included in the principal amount unless the board finds that those costs and expenses are necessary and reasonable at the time the obligations are issued.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.008, eff. Sept. 1, 2001.

Sec. 1232.116. MANNER OF REPAYMENT. (a) The board may provide for the payment of the principal of and interest on obligations issued under this chapter:

(1) by pledging all or part of the revenue derived from:

(A) leasing a building or equipment to a state agency either directly or through the commission; or

(B) selling equipment on an installment basis to a state agency either directly or through the commission; or

(2) from any other funds lawfully available to the board.

(b) From funds appropriated for paying rental charges or making installment payments on buildings or equipment, the commission or an occupying or using state agency shall pay to the board a rental or make installment payments on the buildings or equipment.

(c) The board shall determine the amount of the rental or installment payments. The amount must be sufficient to:

(1) pay the principal of and interest on the obligations;

(2) maintain any reserve fund required for servicing the obligations; and

(3) reimburse the authority for other costs incurred by it with respect to the obligations.

(d) When the commission or another state agency is required by Subsection (b) to pay a rental to the authority and the commission or other state agency depends on receiving a rental from

an occupying or using state agency to pay the authority, the commission or other state agency shall set the rental in an amount that is sufficient to pay the rental required by the board.

(e) In addition to other sources of repayment provided by this section, the legislature by law may direct that money in the Texas capital trust fund account be used to pay the principal of and interest on bonds issued under this chapter for the acquisition or construction of a building.

(f) The legislature may require the deposit into the Texas capital trust fund account of all or part of the proceeds of a transaction concerning a building.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.117. STATE DEBT NOT CREATED. (a) An obligation issued under this chapter is not a debt of the state or any state agency, political corporation, or political subdivision of the state and is not a pledge of the faith and credit of any of them. A bond is payable solely from revenue as provided by this chapter.

(b) An obligation issued under this chapter must contain on its face a statement to the effect that:

(1) neither the state nor a state agency, political corporation, or political subdivision of the state is obligated to pay the principal of or interest on the obligation except as provided by this chapter; and

(2) neither the faith and credit nor the taxing power of the state or any state agency, political corporation, or political subdivision of the state is pledged to the payment of the principal of or interest on the obligation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.118. ORDER OR RESOLUTION AUTHORIZING ISSUANCE OF OBLIGATIONS. (a) An order or resolution of the board authorizing the issuance of obligations, including refunding obligations, may provide for the flow of funds and the establishment and maintenance of the interest and sinking fund, the reserve fund, and other funds.

(b) The order or resolution may:

(1) prohibit the issuance of additional obligations payable from the pledged revenues; or

(2) preserve the right of the board to issue additional obligations that are on a parity with or subordinate to the lien and pledge on the revenue being used to support the obligations being issued pursuant to the order or resolution.

(c) The order or resolution may contain any other provision or covenant determined by the board.

(d) The board may make covenants with respect to the obligations, the pledged revenues, and the operation and maintenance of the buildings or equipment financed under this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.119. ADOPTION AND EXECUTION OF INSTRUMENTS. The board may adopt and have executed any other proceeding or instrument necessary and convenient in the issuance of obligations.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.1191. DELEGATION OF AUTHORITY. (a) The board may delegate authority to negotiate contracts required for issuance of obligations to one or more of its employees or members.

(b) The negotiation of a contract described by Subsection (a), including oral discussions with contractors, is not considered to be a meeting or a deliberation.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 8.009(a), eff. Sept. 1, 2001.

Sec. 1232.120. EXEMPTION FROM TAXATION. An obligation issued by the board, any transaction relating to the obligation, and profits made from the sale of the obligation are exempt from taxation by this state or by a municipality or other political subdivision of this state.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.121. CERTIFICATION AND DEPOSIT OF PROCEEDS OF OBLIGATIONS. (a) After issuing obligations, the board shall certify to the commission or the appropriate state agency and to the comptroller that the proceeds from the issuance are available. The board shall deposit the proceeds in the state treasury.

(b) The proceeds shall be credited to the account of the state agency that is responsible under an agreement for making rental or installment payments to the authority.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.122. COMMENCEMENT OF CONSTRUCTION, PURCHASE, OR

LEASE. The acquisition or construction of a building or the purchase or lease of equipment may begin after:

(1) the authority has certified that obligations in an amount sufficient to pay the construction or purchase price of the project have been authorized for issuance by the authority and approved by the Bond Review Board; or

(2) the proceeds have been deposited into the state treasury and:

(A) the comptroller has certified that the proceeds are available;

(B) the reserve funds and capitalized interest, as certified by the authority as reasonably required, have been paid; and

(C) the costs of issuing the obligations, as certified by the authority, have been paid.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.010(a), eff. Sept. 1, 2001.

Sec. 1232.123. INVESTMENT OF BOND PROCEEDS. (a) With the board's concurrence, the comptroller shall invest the unexpended bond proceeds and investment income on bond proceeds in investments approved by law for the investment of state funds.

(b) Investment income that the board determines is needed to finance the acquisition, construction, purchase, or lease of buildings or equipment and that is not required to be rebated to the federal government shall be credited to the account of the appropriate state agency.

(c) Investment income that the board determines is not needed to finance the acquisition, construction, purchase, or lease of buildings or equipment and that is not required to be rebated to the federal government shall be credited to and accounted for in the state lease fund account.

(d) Notwithstanding Section 404.071, the interest earned on the investment income that is deposited in the state lease fund account shall be credited to and accounted for in that account.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER D. LEASE AND CONVEYANCE OF PROPERTY BY AUTHORITY

Sec. 1232.201. RENT AND FEES. (a) The commission or the appropriate state agency shall establish schedules necessary to properly charge occupying state agencies for the expenses incurred in financing the acquisition or construction of buildings in accordance with this chapter.

(b) An occupying state agency shall, when the payments are due, pay to the commission, the appropriate state agency, or directly into the state lease fund account the amount determined by the commission. Instead of payments by an occupying state agency, the legislature may appropriate money on the agency's behalf directly to the state lease fund account.

(c) Payments received by the commission or another state agency under this section shall be deposited to the credit of the state lease fund account.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.202. CONTRACTS CONTINGENT ON LEGISLATIVE APPROPRIATIONS. (a) Each lease or installment sale contract entered into under this chapter is contingent on the legislature's appropriation of sufficient funds.

(b) The board may act as necessary to ensure that the payment of the principal of and interest on obligations is continued without interruption if:

(1) sufficient appropriated funds are unavailable;

(2) the commission or another state agency fails to pay a rental or installment; or

(3) the commission or another state agency fails to renew a lease contract.

(c) Permissible actions under Subsection (b) include:

(1) the re-leasing or subleasing of buildings or equipment to any entity; and

(2) the repossession and resale of equipment to any entity.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.203. LEASE OF SPACE FOR CHILD CARE FACILITY. (a) The commission, when acting under Chapter 663, is not an occupying state agency for purposes of Section 1232.201.

(b) The commission or the appropriate state agency shall include in the schedules developed under Section 1232.201(a) the

method of charging state agencies that occupy all or part of a building to which Section 1232.201 applies for the space in the building that is used for a child-care facility under Chapters 663, 2165, and 2166.

(c) An occupying agency's share shall be determined at least in part on the ratio of the number of the occupying agency's employees who work in the building to the total number of state employees who work in the building.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 761, Sec. 6, eff. Sept. 1, 2001.

Sec. 1232.204. LEASING PREFERENCE. A building owned by the authority is considered state-owned space for the purposes of:

(1) Section 2165.107; and

(2) child-care facility sites located in state-owned buildings under Chapters 663, 2165, and 2166.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.205. LEASE OF SPACE TO OUTSIDE ENTITIES. The board may lease all or part of a building, the acquisition or construction of which was financed under this chapter, to any person if the building cannot be leased to the commission or another state agency.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.206. PROPERTY CONVEYANCE. (a) When the principal of and interest on obligations relating to equipment or a building financed under this chapter are fully paid and the equipment or building is free of all liens, the board shall certify to the commission or the appropriate state agency that rentals, payments, or installments are no longer required to pay the principal of and interest on the obligations.

(b) When making the certification required by Subsection (a), the board shall, if necessary and for \$1, convey the title of the equipment or building, including any real property, to the commission or the appropriate state agency.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.