

GOVERNMENT CODE

CHAPTER 2205. AIRCRAFT POOLING

SUBCHAPTER A. STATE AIRCRAFT POOLING BOARD; GENERAL PROVISIONS

Sec. 2205.001. SHORT TITLE. This chapter may be cited as the State Aircraft Pooling Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2205.002. DEFINITIONS. In this chapter:

(1) "Board" means the State Aircraft Pooling Board.

(2) "State agency" means an office, department, board, commission, institution, or other agency to which a legislative appropriation is made.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2205.003. ESTABLISHMENT. The State Aircraft Pooling Board is an agency of the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2205.004. COMPOSITION OF BOARD; TERMS. (a) The board is composed of:

(1) a member appointed by the governor;

(2) a member appointed by the lieutenant governor;

(3) a member appointed by the speaker of the house of representatives; and

(4) a representative of the Texas Building and Procurement Commission, designated from time to time by the presiding officer of the commission.

(b) The three appointed members of the board hold office for staggered terms of six years, with the term of one member expiring on January 31 of each odd-numbered year. The original appointing authority shall fill any vacancy for the unexpired portion of the term.

(c) The representative of the Texas Building and Procurement Commission is an ex officio, nonvoting member of the board and serves only in an advisory capacity.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 2003, 78th Leg., ch. 785, Sec. 40, eff. Sept. 1, 2003.

Sec. 2205.005. APPOINTMENTS. Appointments to the board shall be made without regard to the race, color, handicap, sex, religion, age, or national origin of the appointees.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2205.006. ELIGIBILITY. Each appointed member of the board must be a representative of the general public. A person is not eligible for appointment as a public 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 board;

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

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

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2205.007. CONFLICTS OF INTEREST. (a) A person may not serve as a member of the board or act as the general counsel to the board 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 board.

(b) An officer, employee, or paid consultant of a Texas trade association in the field of aircraft sales and leasing may not be a board member or a board employee 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 17, of the position classification salary schedule.

(c) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of aircraft sales and leasing may not be a board member and may not be a board employee 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 17, of the position classification salary schedule.

(d) 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.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2205.008. INFORMATION ABOUT QUALIFICATIONS AND STANDARDS OF CONDUCT. The board shall provide to its members and employees, as often as necessary, information regarding their qualifications 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 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2205.009. REMOVAL. (a) It is a ground for removal of an appointed member from the board if the member:

(1) does not have at the time of appointment the qualifications required by Section 2205.006;

(2) does not maintain during service on the board the qualifications required by Section 2205.006;

(3) violates a prohibition established by Section 2205.007;

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

(5) 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 has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the board of the ground. The presiding officer shall then notify the governor that a potential ground for removal exists.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2205.010. PRESIDING OFFICER; MEETINGS; QUORUM. (a) The voting members of the board biennially shall elect a voting member of the board as presiding officer.

(b) The board shall adopt rules for calling and holding meetings and conducting business.

(c) Two voting members of the board constitute a quorum.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2205.011. PUBLIC ACCESS AND TESTIMONY. (a) The board shall prepare and maintain a written plan that describes how a person who does not speak English or who has a physical, mental, or developmental disability can be provided reasonable access to the board's programs.

(b) 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 board.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2205.012. STAFF. (a) The board may employ and compensate staff as provided by legislative appropriation or may use staff provided by the General Services Commission or the state auditor's office.

(b) The board shall develop and implement policies that clearly define the respective responsibilities of the board and the staff the board uses.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2205.013. MERIT PAY. The executive director or the executive director's designee shall develop a system of annual performance evaluations. All merit pay for board staff must be based on the system established under this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2205.014. CAREER LADDER. The executive director or the executive director's designee shall develop an intraagency career ladder program. The program shall require intraagency postings of all non-entry-level positions concurrently with any public posting.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2205.015. EQUAL EMPLOYMENT OPPORTUNITY. (a) The executive director 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, handicap, 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;

(2) a comprehensive analysis of the board's work force that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underuse in the board's work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

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

(b) A policy statement prepared under Subsection (a) must cover an annual period, be updated at least annually, 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 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2205.016. ANNUAL REPORT. (a) The board shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the board during the preceding fiscal year.

(b) The annual report must be in the form and reported in the time provided by the General Appropriations Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2205.017. INFORMATION ON COMPLAINTS. (a) The board shall maintain a file on each written complaint filed with the board. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the board;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the board closed the file without taking action other than to investigate the complaint.

(b) The board shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the board's policies and procedures relating to complaint investigation and resolution.

(c) The board, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Added by Acts 2001, 77th Leg., ch. 1232, Sec. 1, eff. Sept. 1, 2001.

Sec. 2205.018. STATE EMPLOYEE INCENTIVE PROGRAM. The executive director or the executive director's designee shall provide to employees of the board information and training on the benefits and methods of participation in the state employee incentive program.

Added by Acts 2001, 77th Leg., ch. 1232, Sec. 1, eff. Sept. 1, 2001.

SUBCHAPTER B. STATE AIRCRAFT

Sec. 2205.031. APPLICABILITY OF CHAPTER TO STATE AIRCRAFT. (a) This chapter applies to all aircraft owned or leased by the state, except as provided by Section 2205.033.

(b) Each state agency shall use state-owned aircraft to the extent feasible.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1999, 76th Leg., ch. 280, Sec. 11, eff. Sept. 1, 1999.

Sec. 2205.032. CUSTODY, CONTROL, OPERATION, AND MAINTENANCE. (a) The board shall operate a pool for the custody, control, operation, and maintenance of all aircraft owned or leased by the state.

(b) The board may purchase aircraft with funds appropriated for that purpose.

(c) As part of the strategic plan that the board develops

and submits under Chapter 2056, the board shall develop a long-range plan for its pool of aircraft. The board shall include appropriate portions of the long-range plan in its legislative appropriations request. The long-range plan must include estimates of future aircraft replacement needs and other fleet management needs, including any projected need to increase or decrease the number of aircraft in the pool. In developing the long-range plan, the board shall consider at a minimum for each aircraft in the pool:

- (1) how much the aircraft is used and the purposes for which it is used;
- (2) the cost of operating the aircraft and the revenue generated by the aircraft; and
- (3) the demand for the aircraft or for that type of aircraft.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1232, Sec. 2, eff. Sept. 1, 2001.

Sec. 2205.033. TEXAS A&M UNIVERSITY SYSTEM AIRCRAFT. (a) The board of regents of The Texas A&M University System is primarily responsible for scheduling Texas A&M University System aircraft.

(b) The Texas A&M University System shall base Texas A&M University System aircraft in Brazos County.

(c) A pilot of Texas A&M University System aircraft must be an employee of The Texas A&M University System.

(d) In this section, "Texas A&M University System aircraft" means aircraft owned on August 31, 1991, or acquired after that date by The Texas A&M University System or one of its components.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2205.034. FACILITIES. (a) The board may acquire appropriate facilities for the accommodation of all aircraft owned or leased by the state. The facilities may be purchased or leased as determined by the board to be most economical for the state and as provided by legislative appropriations. The facilities may include adequate hangar space, an indoor passenger waiting area, a flight-planning area, communications facilities, and other related and necessary facilities.

(b) A state agency that operates an aircraft may not use a facility in Austin other than a facility operated by the board for the storage, parking, fueling, or maintenance of the aircraft, whether or not the aircraft is based in Austin. In a situation the board determines to be an emergency, the board may authorize a state agency to use a facility in Austin other than a board facility for the storage, parking, fueling, or maintenance of an aircraft.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2205.035. AIRCRAFT LEASES. (a) The board by interagency contract may lease state-owned aircraft to a state agency.

(b) A state agency that is the prior owner or lessee of an aircraft has the first option to lease that aircraft from the board.

(c) The lease may provide for operation or maintenance by the board or the state agency.

(d) A state agency may not expend appropriated funds for the lease of an aircraft unless the board executes the lease or approves the lease by board order.

(e) A state agency may not use money appropriated by the legislature to rent or lease aircraft except from the board or as provided by Subsection (f). For purposes of this subsection and Subsection (f), payments of mileage reimbursements provided for by the General Appropriations Act are not rentals or leases of aircraft.

(f) If the board determines that no state-owned aircraft is available to meet a transportation need that has arisen or that a rental or lease of aircraft would reduce the state's transportation costs, the board shall authorize a state agency to expend funds for the rental or lease of aircraft, which may include a helicopter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1999, 76th Leg., ch. 280, Sec. 12, eff. Sept. 1, 1999.

Sec. 2205.036. PASSENGER TRANSPORTATION. (a) The board shall provide aircraft transportation, to the extent that its aircraft are available, to:

(1) state officers and employees who are traveling on official business according to the coordinated passenger scheduling system and the priority scheduling system developed as part of the aircraft operations manual under Section 2205.038;

(2) persons in the care or custody of state officers or employees described by Subdivision (1); and

(3) persons whose transportation furthers official state business.

(b) The board may not provide aircraft transportation to a passenger if the passenger is to be transported to or from a place where the passenger:

(1) will make or has made a speech not related to official state business;

(2) will attend or has attended an event sponsored by a political party;

(3) will perform a service or has performed a service for which the passenger is to receive an honorarium, unless the passenger reimburses the board for the cost of transportation;

(4) will attend or has attended an event at which money is raised for private or political purposes; or

(5) will attend or has attended an event at which an audience was charged an admission fee to see or hear the passenger.

(c) The board may not provide aircraft transportation to a destination unless:

(1) the destination is not served by a commercial carrier;

(2) the time required to use a commercial carrier interferes with passenger obligations; or

(3) the number of passengers traveling makes the use of state aircraft cost-effective.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 280, Sec. 13, eff. Sept. 1, 1999.

Sec. 2205.037. USE FOR POLITICAL PURPOSES; CIVIL LIABILITY. (a) A person may not use a state-owned aircraft solely for political purposes or spend state funds for the use of an aircraft solely for political purposes.

(b) A person who violates this section is civilly liable to the state for the costs incurred by the state because of the violation.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2205.038. AIRCRAFT OPERATIONS MANUAL. (a) The board shall:

(1) prepare a manual that establishes minimum standards for the operation of aircraft by state agencies; and

(2) adopt procedures for the distribution of the manual to state agencies.

(b) The manual must include provisions for:

(1) pilot certification standards, including medical requirements for pilots;

(2) recurring training programs for pilots;

(3) general operating and flight rules;

(4) coordinated passenger scheduling; and

(5) other issues the board determines are necessary to ensure the efficient and safe operation of aircraft by a state agency.

(c) The board shall confer with and solicit the written advice of state agencies the board determines are principal users of aircraft operated by the board and, to the extent practicable, incorporate that advice in the development of the manual and subsequent changes to the manual.

(d) The board shall give an officer normally elected by statewide election priority in the scheduling of aircraft. The board by rule may require a 12-hour notice by the officer to obtain the priority in scheduling.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 280, Sec. 14, eff. Sept. 1, 1999.

Sec. 2205.039. TRAVEL LOG. (a) The Legislative Budget Board, in cooperation with the board, shall prescribe:

(1) a travel log form for gathering information about the use of state-operated aircraft;

(2) procedures to ensure that individuals who travel as passengers on or operate state-operated aircraft provide in a legible manner the information requested of them by the form; and

(3) procedures for each state agency that operates an aircraft for sending the form to the board and the Legislative Budget Board.

(b) The travel log form must request the following

information about a state-operated aircraft each time the aircraft is flown:

(1) a mission statement, which may appear as a selection to be identified from general categories appearing on the form;

(2) the name, state agency represented, destination, and signature of each person who is a passenger or crew member of the aircraft;

(3) the date of each flight;

(4) a detailed and specific description of the official business purpose of each flight; and

(5) other information determined by the Legislative Budget Board and the board to be necessary to monitor the proper use of the aircraft.

(c) A state agency other than the board shall send travel logs to the board each month in which the agency operates an aircraft.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 281, Sec. 11, eff. Sept. 1, 1999.

Sec. 2205.040. RATES AND BILLING PROCEDURES. (a) The board shall adopt rates for interagency aircraft services that are sufficient to recover, in the aggregate and to the extent possible, all direct costs for the services provided, including a state agency's pro rata share of major maintenance, overhauls of equipment and facilities, and pilots' salaries.

(b) The Legislative Budget Board, in cooperation with the board and the state auditor, shall prescribe a billing procedure for passenger travel on state-operated aircraft.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 280, Sec. 15, eff. Sept. 1, 1999.

Sec. 2205.041. AIRCRAFT USE FORM. (a) The Legislative Budget Board, in cooperation with the board, shall prescribe:

(1) an annual aircraft use form for gathering information about the use of state-operated aircraft, including the extent to which and the methods by which the goal provided by Section 2205.031(b) is being met; and

(2) procedures for each state agency that operates an aircraft for sending the form to the board and the Legislative Budget Board.

(b) The aircraft use form must request the following information about each aircraft a state agency operates:

(1) a description of the aircraft;

(2) the date purchased or leased and the purchase price or lease cost;

(3) the number of annual hours flown;

(4) the annual operating costs;

(5) the number of flights and the destinations;

(6) the travel logs prepared under Section 2205.039;

and

(7) any other information the Legislative Budget Board requires to document the proper or cost-efficient use of the aircraft.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 280, Sec. 16, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 281, Sec. 12, eff. Sept. 1, 1999.

Sec. 2205.042. PILOTS. An individual who is not a pilot employed by the board may not operate a state-operated aircraft unless the board grants the individual a specific exemption from that requirement.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2205.043. AIRCRAFT MARKING. (a) Each aircraft owned or leased by the state, other than an aircraft used for law enforcement purposes, shall be marked:

(1) with the state seal on each side of the aircraft's vertical stabilizer; and

(2) with the words "The State of Texas" on each side of the aircraft's fuselage.

(b) The board shall adopt rules, consistent with federal regulations and Article 6139f, Revised Statutes, governing the color, size, and location of marks of identification required by this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.39(a), eff. Sept. 1,

1995.

Sec. 2205.044. FUEL AND MAINTENANCE CONTRACTS. The board may contract with a state or federal governmental agency or a political subdivision to provide aircraft fuel or to provide aircraft maintenance services.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2205.045. INSURANCE. (a) The board may purchase insurance to protect the board from loss caused by damage, loss, theft, or destruction of aircraft owned or leased by the state and shall purchase liability insurance to protect the officers and employees of each state agency from loss arising from the operation of state-owned aircraft.

(b) The insurance must be on a form approved by the State Board of Insurance.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1999, 76th Leg., ch. 280, Sec. 17, eff. Sept. 1, 1999.

Sec. 2205.046. AIRCRAFT FOR FLIGHT TRAINING PROGRAMS. (a) The board may transfer aircraft to a public technical institute or other public postsecondary educational institution for use in the institution's flight training program. Except as provided by this section, the board has no responsibility for continued maintenance of aircraft transferred under this section.

(b) As a condition to the transfer of the aircraft, the institution must certify in writing to the board that the institution will accept full responsibility for maintenance of the aircraft and that it will be properly maintained while in the custody and control of the institution. The board is entitled to inspect the aircraft without notice for the purpose of insuring that the aircraft are properly maintained.

(c) The board may immediately reassume custody and control of a transferred aircraft on a finding by the board that:

(1) the aircraft is not being properly maintained;

(2) the aircraft is being used for a purpose other than flight training; or

(3) the institution has discontinued its flight training program.

Added by Acts 1997, 75th Leg., ch. 280, Sec. 1, eff. May 26, 1997.

Sec. 2205.047. INFORMATION POSTED ON THE INTERNET. The board shall post information related to travel and other services provided by the board on an Internet site maintained by or for the board. The site must be generally accessible to state agencies, persons who use the board's services, and, to the extent appropriate, the general public.

Added by Acts 2001, 77th Leg., ch. 1232, Sec. 3, eff. Sept. 1, 2001.