

TRANSPORTATION CODE  
SUBTITLE I. TRANSPORTATION CORPORATIONS  
CHAPTER 431. TEXAS TRANSPORTATION CORPORATION ACT  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 431.001. SHORT TITLE. This chapter may be cited as the Texas Transportation Corporation Act.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.002. PURPOSES; LIBERAL CONSTRUCTION. (a) The purposes of this chapter are:

(1) the promotion and development of public transportation facilities and systems by new and alternative means;

(2) the expansion and improvement of transportation facilities and systems;

(3) the creation of corporations to secure and obtain rights-of-way for urgently needed transportation systems and to assist in the planning and design of those systems;

(4) the reduction of burdens and demands on the limited funds available to the commission and an increase in the effectiveness and efficiency of the commission; and

(5) the promotion and development of transportation facilities and systems that are public, not private, in nature, although these facilities and systems may benefit private interests as well as the public.

(b) This chapter shall be liberally construed to give effect to the purposes of this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.003. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of a corporation organized under this chapter.

(2) "Corporation" means a corporation organized under this chapter and includes a local government corporation.

(3) "Local government" means:  
(A) a municipality;  
(B) a county; or  
(C) for purposes of Subchapter D, a navigation district.

(4) "Local government corporation" means a corporation incorporated as provided by Subchapter D to act on behalf of a local government.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1370, Sec. 1, eff. June 16, 2001.

Sec. 431.004. OPEN MEETINGS. (a) A corporation is subject to Chapter 551, Government Code.

(b) Except as provided by Subsection (c) or (d), the board shall file notice of each meeting of the board in the same manner and in the same location as is required of a state governmental body under Chapter 551, Government Code.

(c) If the commission designates an area of the state in which a corporation may act on behalf of the commission, the board shall file notice of each meeting of the board in the same manner and in the same location as is required of a governmental body under Section 551.053, Government Code.

(d) The board of a local government corporation shall file notice of each meeting of the board in the same manner and in the same location as is required of the governing body under Chapter 551, Government Code, of the one or more local governments that created the local government corporation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.005. OPEN RECORDS. The board is subject to Chapter 552, Government Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.006. APPLICATION OF TEXAS NON-PROFIT CORPORATION ACT. The Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) applies to a corporation to the extent that the provisions of that Act are not inconsistent with this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. CREATION AND OPERATION OF CORPORATION

Sec. 431.021. PURPOSE OF CORPORATION. The purpose of a corporation is limited to the promotion and development of public transportation facilities and systems.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.022. APPLICATION. (a) Three or more individuals may file with the commission an application for the creation of a corporation within a designated area.

- (b) Each of the individuals must be a qualified voter.
- (c) The application must be in writing.
- (d) The application must contain the articles of incorporation proposed to be used in organizing the corporation.
- (e) The commission may not charge a filing fee for the application.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.023. ADOPTION OF RESOLUTION. (a) A corporation may be created only if the commission adopts a resolution authorizing the creation of a corporation to act on behalf of the commission.

- (b) A resolution must state that the commission:
  - (1) determines that creation of the corporation is advisable; and
  - (2) approves the articles of incorporation proposed to be used in organizing the corporation.

(c) The commission may designate the area of the state in which the corporation may act on behalf of the commission. The designated area may include the territory of more than one political subdivision of the state.

(d) The commission may authorize the creation of more than one corporation to act within the same designated area. The resolution authorizing each corporation must specify the public purpose of that corporation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.04, eff. Sept. 1, 1999.

Sec. 431.024. FORM OF CORPORATION. (a) A corporation is a nonmember, nonstock corporation.

(b) A corporation is nonprofit, and its earnings may not benefit a private interest.

(c) A corporation may be created as a perpetual corporation. Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.025. ARTICLES OF INCORPORATION. The articles of incorporation must state:

- (1) the name of the corporation;
- (2) that the corporation is a nonprofit corporation;
- (3) the duration of the corporation;
- (4) the specific purpose for which the corporation is organized on behalf of the commission;
- (5) that the corporation does not have any members and is a nonstock corporation;
- (6) the street address of the corporation's initial registered office and the name of its initial registered agent at that address;
- (7) the number of directors of the initial board and the name and address of each director;
- (8) the name and street address of each incorporator;
- (9) any provision for the regulation of the internal affairs of the corporation, including any provision required or permitted by this chapter to be in the bylaws; and
- (10) that the commission has:

(A) by resolution specifically authorized the corporation to act on its behalf to further the public purpose stated in the resolution and in the articles of incorporation; and

(B) approved the articles of incorporation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.026. DELIVERY AND FILING OF CERTIFICATE OF INCORPORATION. (a) After the commission adopts a resolution under Section 431.023, three originals of the articles of incorporation shall be delivered to the secretary of state.

(b) The secretary of state shall determine whether the articles of incorporation conform to this chapter. On determination that the articles conform to this chapter and on receipt of a \$25 fee, the secretary of state shall:

- (1) endorse on each original the word "filed" and the date of the filing;
- (2) file one of the originals in the secretary's office;

(3) issue two certificates of incorporation;

(4) attach to each certificate an original of the articles of incorporation; and

(5) deliver a certificate of incorporation and the attached articles of incorporation to:

- (A) each incorporator or its representative; and
- (B) the commission.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.027. EFFECT OF ISSUANCE OF CERTIFICATE OF INCORPORATION. (a) A corporation's existence begins when its certificate of incorporation is issued.

(b) After the issuance of the certificate of incorporation, the incorporation may not be contested for any reason.

(c) A certificate of incorporation is conclusive evidence that:

(1) all conditions for incorporation required of the incorporators and the commission are satisfied; and

(2) the corporation is incorporated under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.028. BOARD. (a) A corporation must have a board in which the powers of the corporation reside.

(b) The board consists of three or more directors.

(c) The commission shall appoint each director for a term that may not exceed six years.

(d) The commission may remove a director for or without cause.

(e) A director serves without compensation but is entitled to reimbursement from the corporation for expenses incurred in the performance of the director's duties.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.029. ADVISORY DIRECTORS. (a) The board may appoint any number of advisory directors.

(b) An advisory director advises and assists the directors in promoting and developing new and expanded transportation facilities and systems.

(c) An advisory director serves until the completion of a particular project or at the will of the directors.

(d) An advisory director does not have a vote in the affairs of the corporation.

(e) An advisory director serves without compensation. The corporation may not reimburse an advisory director for expenses incurred in the performance of the director's duties.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.030. BYLAWS. (a) The board shall adopt the initial bylaws of a corporation. The commission, by resolution, must approve the initial bylaws.

(b) A corporation may change its bylaws only with the approval of the commission.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.031. QUORUM. (a) A quorum of a board is the lesser of:

(1) a majority of:

(A) the membership of the board under the bylaws;

or

(B) if the bylaws do not provide the membership of the board, the membership of the board under the articles of incorporation; or

(2) the number, which must be more than two, set as the quorum by the articles of incorporation or the bylaws.

(b) An act of the majority of the directors present at a meeting at which there is a quorum is an act of the board, unless the act of a greater number is required by the articles of incorporation or the bylaws.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.032. INDEMNIFICATION. (a) A corporation may indemnify a director or officer of the corporation for necessary expenses and costs, including attorney's fees, incurred by the director or officer in connection with any claim asserted against the director or officer in a court action or otherwise for negligence or misconduct.

(b) If a corporation does not fully indemnify a director or officer as provided by Subsection (a), the court in a proceeding in which any claim against the director or officer is asserted or any court with jurisdiction of an action instituted by the director or officer on a claim for indemnity may assess indemnity against the corporation, its receiver, or trustee for the amount paid by the director or officer, including attorney's fees, to pay any judgment or settlement of the claim necessarily incurred by the director or officer in connection with the claim in an amount the court considers reasonable and equitable only if the court finds that, in connection with the claim, the director or officer is not guilty of negligence or misconduct.

(c) A court may not assess indemnity under Subsection (b) for an amount paid by the director or officer to the corporation.

(d) In this section, "director or officer" includes a former director or officer.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.033. EXEMPTION FROM TAXATION. A corporation affects all the people in its area by assuming to a material extent what otherwise might be an obligation or duty of the commission and is a purely public charity under Section 2, Article VIII, Texas Constitution. However, a corporation is exempt from the franchise tax under Chapter 171, Tax Code, only if the corporation is exempted by that chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.034. INCOME OF TRANSPORTATION CORPORATION. The commission has the unrestricted right at any time to receive any income earned by a corporation other than a local government corporation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

#### SUBCHAPTER C. CORPORATE POWERS

Sec. 431.061. DEFINITIONS. In this subchapter:

(1) "Construction" includes improvement and landscaping.

(2) "Highway" includes an improvement to a highway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.062. GENERAL POWERS. (a) A corporation has the powers and privileges of a nonprofit corporation incorporated under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes).

(b) A corporation has the powers provided by this subchapter to promote and develop new and expanded transportation facilities and systems on behalf of the commission and powers incidental to or necessary for the performance of that purpose.

(c) A corporation may, at the request of the commission, perform any function not specified by this chapter to promote and develop transportation facilities and systems.

(d) A corporation has the powers necessary to construct or improve transportation facilities and systems approved by the commission.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.063. PROMOTION AND DEVELOPMENT OF TRANSPORTATION FACILITIES AND SYSTEMS. A corporation may work directly with property owners, local and state governmental agencies, and elected officials to support an activity required to promote and develop a transportation facility or system.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.064. ALIGNMENT STUDIES. A corporation may perform a preliminary or final alignment study.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.065. CONTRIBUTIONS; EXPENSES. (a) A corporation may receive:

(1) a contribution of real property for a right-of-way; and

(2) a cash donation for:

(A) the purchase of a right-of-way; or

(B) the design or construction of a transportation facility or system.

(b) A corporation may establish a formula to determine the amount of cash donations from affected property owners and others necessary to cover the cost of a service to be performed by the corporation or its consultants.

(c) A corporation may borrow money to meet any expense or need associated with the regular operation of the corporation or a particular transportation project.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.066. EMPLOYEES AND CONSULTANTS. (a) A corporation may employ an administrative staff.

(b) A corporation may retain legal, public relations, and engineering services required to develop a transportation facility or system.

(c) Through its staff and retained consultants, a corporation may prepare an exhibit, right-of-way document, environmental report, schematic, or preliminary or final engineering plan necessary to develop a transportation facility or system.

(d) A corporation may pay an employee or consultant from

money donated to develop a transportation facility or system.  
Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.067. PROMOTIONAL ACTIVITIES. (a) A corporation may make official presentations to the state and other affected agencies or groups concerning the development of a transportation project.

(b) A corporation may issue a press release or other material to promote the activities of a transportation project.  
Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.068. CONSTRUCTION OR IMPROVEMENT CONTRACTS. (a) A corporation may contract with the commission to:

(1) construct or improve a transportation project designated by the commission; and

(2) sell the project or improvement to the commission.

(b) For a transportation project constructed by a corporation, the corporation may contract with the commission for the commission to:

(1) supervise the construction; or

(2) provide construction management services.

(c) A corporation and a county, a home-rule municipality, a county road district created under Chapter 257, or a road utility district created under Chapter 441 may contract to pay jointly the cost of a transportation project designated by the commission. The contract may obligate the corporation to design, construct, or improve the transportation project.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.069. LOCATION OF TRANSPORTATION PROJECTS. A corporation may construct or improve a transportation project on real property, including a right-of-way acquired by the corporation, provided to the corporation for that purpose by the commission or a political subdivision of this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.070. BONDS AND NOTES. (a) A corporation may issue bonds and notes to carry out its purpose.

(b) The bonds and notes may be issued under any power or authority available to the corporation, including Chapter 1201, Government Code.

(c) A bond or note must state on its face that it is not an obligation of the State of Texas.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.394, eff. Sept. 1, 2001.

Sec. 431.071. APPROVAL OF BONDS AND NOTES BY ATTORNEY GENERAL. (a) A corporation shall submit a bond or note authorized under Section 431.070 and a contract supporting its issuance to the attorney general for examination.

(b) If the attorney general finds that the bond or note, and any supporting contract are authorized under this chapter, the attorney general shall approve them.

(c) After approval by the attorney general, a bond, note, or contract may not be contested for any reason.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.072. LIMITATION TO FEDERAL OR STATE HIGHWAY SYSTEM. A corporation may plan, design, acquire, construct, improve, extend, or maintain a transportation project only if the project:

(1) is intended by the commission to become part of the federal or state highway system; and

(2) is not intended to:

(A) become a county road or municipal street; or

(B) be owned by a county road district or by a road utility district.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.073. PROJECT IN COUNTY OF 500,000 OR MORE OR ADJACENT COUNTY. (a) This section applies only to a corporation that was created by the state or one or more counties or municipalities to implement a transportation project in:

(1) a county with a population of 500,000 or more; or

(2) a county adjacent to a county described by Subdivision (1).

(b) If approved and authorized by the commission, a corporation created by the state has the rights, powers, privileges, authority, and functions given the department under this title to:

(1) construct, improve, operate, and maintain high occupancy vehicle lanes; and

(2) charge a toll for the use of one or more high occupancy vehicle lanes for the purpose of congestion mitigation.

(c) A corporation in existence on August 31, 1991, has the powers, rights, and privileges of a corporation created under Chapter 11, Title 32, Revised Statutes, as that law existed on August 31, 1991, except that the required right-of-way of any highway, road, street, or turnpike may be of the width required or approved by the commission or each governing body creating the corporation.

Text of subsec. (d) effective until August 31, 2008.

(d) A motor vehicle displaying the "low-emissions vehicle" insignia authorized by Section 502.186 in an easily readable location on the back of the vehicle is entitled to travel in a high occupancy vehicle lane designated under this section regardless of the number of occupants in the vehicle. This subsection expires August 31, 2008.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.25, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 967, Sec. 6, eff. Sept. 1, 2001.

#### SUBCHAPTER D. LOCAL GOVERNMENT CORPORATIONS

Sec. 431.101. CREATION OF LOCAL GOVERNMENT CORPORATION. (a) A local government corporation may be created to aid and act on behalf of one or more local governments to accomplish any governmental purpose of those local governments. To be effective, the articles of incorporation and the bylaws of a local government corporation must be approved by ordinance, resolution, or order adopted by the governing body of each local government that the corporation is created to aid and act on behalf of.

(b) A local government corporation has the powers of a corporation authorized for creation by the commission under this chapter.

(c) The provisions of the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) relating to powers, standards of conduct, and interests in contracts apply to the directors and officers of the local government corporation.

(d) A provision of this chapter relating to the creation, dissolution, administration, or supervision of a corporation by the commission does not apply to a local government corporation.

(e) Section 394.904(a), Local Government Code, applies to property and improvements owned by a local government corporation. Section 394.904(b) of that code applies to each contract awarded by the local government corporation.

(f) A member of the board of directors of a local government corporation:

(1) is not a public official by virtue of that position; and

(2) unless otherwise ineligible, may be appointed to serve concurrently on the board of directors of a reinvestment zone created under Chapter 311, Tax Code.

(g) A local government corporation created by a navigation district must comply with all state law related to the design and construction of projects, including the procurement of design and construction services, that applies to the navigation district that created the corporation.

(h) A local government corporation formed by a navigation district shall not condemn a right-of-way through any part of a municipality without the consent of the municipality's governing body.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.24, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 983, Sec. 12, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 1370, Sec. 2, 3, eff. June 16, 2001.

Sec. 431.102. APPLICATION OF CHAPTER 394, LOCAL GOVERNMENT CODE. (a) In the manner in which Chapter 394, Local Government Code, applies to a corporation created under that chapter, that chapter applies to:

(1) the manner in which a local government corporation is created and dissolved;

(2) the appointment of the board of a local government corporation and the members' terms of service;

(3) the manner and the conditions under which the board serves; and

(4) the form, execution, approval, filing, and amending of the articles of incorporation and bylaws of a local government corporation.

(b) The property of a local government corporation and a transaction to acquire the property is exempt from taxation in the same manner as a corporation created under Chapter 394, Local Government Code.

(c) The requirement of Section 394.021(a), Local Government Code, that all directors must be residents of the local government shall not be applicable to directors of a local government corporation except that a person may not be appointed to the board of a local government corporation if the appointment of that person would result in less than a majority of the board members being residents of the local government.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 983, Sec. 13, eff. June 18, 1999.

Sec. 431.103. CONTRACTS WITH POLITICAL SUBDIVISIONS. A local government corporation may contract with a political subdivision of this state in the manner and to the same extent as any other corporation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.104. ASSUMPTION OF POWERS AND DUTIES. (a) The governing body of a local government may assume for the local government the powers and duties of a local government corporation created by the local government.

(b) A local government that assumes the powers and duties of a local government corporation assumes the assets and liabilities of the corporation.

(c) The powers and duties of a local government corporation created by more than one local government may be assumed only if each local government that created the corporation agrees to the assumption.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.105. CONTRACTUAL AUTHORITY. (a) A state agency, including the commission, or a political subdivision may contract with a local government corporation to accomplish a governmental purpose of the sponsoring local government in the same manner and to the same extent that it:

(1) may contract with any other corporation created under this chapter; and

(2) is authorized to contract under Subchapter A, Chapter 472.

(b) A local government may contract with a corporation to accomplish the purposes of the sponsoring local government in the manner provided under Subchapter C, Chapter 224.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.106. PUBLIC SAFETY RULES. A local government that creates a local government corporation may establish and enforce traffic and other public safety rules on a toll road, toll bridge, or turnpike of the corporation. Local governments that jointly create a local government corporation may jointly establish and enforce those rules.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.107. INCOME OF LOCAL GOVERNMENT CORPORATION. (a) A local government creating a local government corporation is entitled at any time to receive any income earned by the local government corporation that is not needed to pay the corporation's expenses or obligations.

(b) The earnings of a local government corporation may not benefit a private interest.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.108. GOVERNMENTAL FUNCTIONS. (a) A local government corporation is a governmental unit as that term is used in Chapter 101, Civil Practice and Remedies Code.

(b) The operations of a local government corporation are governmental, not proprietary, functions.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.109. CONTRACTS FOR HISTORICALLY UNDERUTILIZED BUSINESSES. (a) This section applies only to a local government corporation serving a county with a population of more than 2.4 million.

(b) A local government corporation shall set and make a good faith effort to meet or exceed goals for awarding contracts or subcontracts associated with a project it operates, maintains, or constructs to historically underutilized businesses.

(c) The goals must equal or exceed:

(1) the federal requirement on federal money used in highway construction and maintenance; and

(2) the goals adopted by the department under Section 201.702.

(d) The goals apply to the total value of all contracts and subcontracts awarded, including contracts and subcontracts for construction, maintenance, operations, supplies, services, materials, equipment, professional services, the issuance of bonds, and bond counsel.

(e) In this section, "historically underutilized business" means:

(1) a corporation formed for the purpose of making a profit in which at least 51 percent of all classes of the shares of stock or other equitable securities is owned, managed, and in daily operations controlled by one or more persons who have been historically underutilized because of their identification as members of certain groups, including African Americans, Hispanic Americans, women, Asian Pacific Americans, and Native Americans, who have suffered the effects of discriminatory practices or similar invidious circumstances over which they have no control;

(2) a sole proprietorship formed for the purpose of making a profit that is 100 percent owned and in daily operation is controlled by a person described by Subdivision (1);

(3) a partnership formed for the purpose of making a profit in which at least 51 percent of the assets and interest in the partnership are owned by one or more persons described by Subdivision (1) and who also have proportionate interest in the control, daily operation, and management of the partnership's affairs;

(4) a joint venture in which each entity in the joint venture is a historically underutilized business; or

(5) a supplier contract between a historically underutilized business and a prime contractor under which the historically underutilized business is directly involved in the manufacture or distribution of the supplies or materials or otherwise warehouses and ships the supplies or materials.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER E. AMENDMENT OR RESTATEMENT OF ARTICLES OF INCORPORATION

Sec. 431.141. AMENDMENT. The articles of incorporation of a corporation created under this chapter may be amended only as provided by this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.142. AMENDMENT BY BOARD OF DIRECTORS. (a) The board at any time may file with the commission a written application requesting that the commission approve an amendment to the articles of incorporation.

(b) The application must specify the proposed amendment.

(c) The board shall amend the articles if the commission by resolution:

(1) determines that it is advisable to adopt the proposed amendment;

(2) authorizes the adoption of the amendment; and

(3) approves the form of the amendment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.143. AMENDMENT BY COMMISSION. The commission, at its sole discretion, may amend the articles of incorporation at any time by:

(1) adopting the amendment by resolution; and

(2) delivering the articles of amendment to the secretary of state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.144. CONTENTS OF ARTICLES OF AMENDMENT. The articles of amendment must:

(1) state the name of the corporation;

(2) if the amendment alters a provision of the articles of incorporation, identify by reference or describe the altered provision and include its text as it is amended;

(3) if the amendment is an addition to the articles of incorporation, state that fact and include the text of each provision added; and

(4) state that the amendment was adopted or was approved by the commission and give the date the commission adopted or approved the amendment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.145. EXECUTION AND VERIFICATION OF ARTICLES OF AMENDMENT. (a) Articles of amendment adopted by the board shall be executed by:



(1) the president or vice-president of the corporation; and

(2) the secretary or assistant secretary of the corporation.

(b) Articles of amendment adopted by the commission shall be executed by:

(1) the presiding officer of the commission; and

(2) the secretary or clerk of the commission.

(c) One of the officers signing the articles shall verify each of the articles of amendment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.146. DELIVERY AND FILING OF ARTICLES OF AMENDMENT. (a) Three originals of the articles of amendment shall be delivered to the secretary of state.

(b) The secretary of state shall determine whether the articles of amendment conform to this chapter. On determination that the articles conform to this chapter and on receipt of a \$25 fee, the secretary of state shall:

(1) endorse on each original the word "filed" and the date of the filing;

(2) file one of the originals in the secretary's office;

(3) issue two certificates of amendment;

(4) attach to each certificate one of the originals; and

(5) deliver a certificate of amendment and the attached articles of amendment to:

(A) the corporation or its representative; and

(B) the commission.

(c) On the issuance of the certificate of amendment, the amendment is effective and the articles of incorporation are amended accordingly.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.147. SUITS NOT AFFECTED. (a) An amendment to the articles of incorporation does not affect:

(1) any existing cause of action in favor of or against the corporation;

(2) any pending suit to which the corporation is a party; or

(3) the existing rights of any person.

(b) If an amendment to the articles of incorporation changes the name of the corporation, a suit brought by or against the corporation under its former name does not abate for that reason.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.148. RESTATEMENT OF ARTICLES. A corporation, by following the procedure to amend the articles of incorporation in this subchapter, including obtaining the approval of the commission, may authorize, execute, and file restated articles of incorporation as provided by this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.149. RESTATEMENT WITHOUT ADDITIONAL AMENDMENT. (a) A corporation may, without making any additional amendment, restate the entire text of the articles of incorporation as amended or supplemented by all certificates of amendment previously issued by the secretary of state.

(b) The introductory paragraph of a restatement under this section must contain a statement that the restatement:

(1) accurately copies the articles of incorporation and all amendments to the articles that are in effect; and

(2) does not contain any additional amendments to the articles.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.150. RESTATEMENT WITH ADDITIONAL AMENDMENT. (a) A corporation may:

(1) restate the entire text of the articles of incorporation as amended or supplemented by all certificates of amendment previously issued by the secretary of state; and

(2) as part of the restatement, make additional amendments to the articles.

(b) A restatement under this section must:

(1) state that any additional amendment to the articles of incorporation conforms to this chapter;

(2) contain any statement required by this subchapter for articles of amendment except that the full text of any additional amendment is not required to be presented other than in

the restatement itself;

(3) contain a statement that:

(A) the restatement is an accurate copy of the articles of incorporation and all amendments to the articles that are in effect and all additional amendments made to the articles; and

(B) the restatement does not contain any other change; and

(4) restate the text of the entire articles of incorporation as amended or supplemented by all certificates of amendment previously issued by the secretary of state and as additionally amended by the restated articles of incorporation. Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.151. CHANGE IN BOARD INFORMATION NOT AMENDMENT. For the purposes of Sections 431.149 and 431.150, substituting in the restated articles of incorporation the number, names, and addresses of the directors for the initial board or omitting the name and address of each incorporator is not an amendment or change in the articles of incorporation. Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.152. EXECUTION AND VERIFICATION OF RESTATEMENT OF ARTICLES. (a) Originals of the restated articles of incorporation shall be executed by:

(1) the president or vice-president of the corporation; and

(2) the secretary or assistant secretary of the corporation.

(b) One of the officers signing the restated articles shall verify each of the restated articles.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.153. DELIVERY AND FILING OF RESTATEMENT OF ARTICLES. (a) Three originals of the restated articles of incorporation shall be delivered to the secretary of state.

(b) The secretary of state shall determine whether the restated articles conform to this chapter. On a determination that the restated articles conform to law and on receipt of a \$50 fee, the secretary of state shall:

(1) endorse on each original the word "filed" and the date of the filing;

(2) file one of the originals in the secretary's office;

(3) issue two restated certificates of incorporation;

(4) attach to each certificate one of the original restated articles; and

(5) deliver a restated certificate of incorporation and the attached restated articles to:

(A) the corporation or its representative; and

(B) the governing body of the entity that created the corporation.

(c) On the issuance of the restated certificate of incorporation, the original articles of incorporation and all amendments to the original articles are superseded. The restated articles of incorporation become the articles of incorporation of the corporation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

#### SUBCHAPTER F. ALTERATION OR DISSOLUTION OF CORPORATION

Sec. 431.181. ALTERATION OR DISSOLUTION BY COMMISSION. (a) At any time the commission in its sole discretion may:

(1) alter the structure, organization, programs, or activities of a corporation; or

(2) dissolve a corporation.

(b) The authority of the commission under this section is limited only by:

(1) any law of this state prohibiting the impairment of a contract entered into by a corporation; and

(2) any provision of this subchapter relating to alteration or dissolution.

(c) The commission must make an alteration or dissolution under this section by a written resolution.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.182. DISSOLUTION BY BOARD ON COMPLETION OF PURPOSE. The board, with the approval by written resolution of the commission, shall dissolve the corporation as provided by this subchapter if the board by resolution determines that:

(1) the purposes for which the corporation was formed

have been substantially fulfilled; and

(2) all obligations of the corporation have been fully paid.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.183. EXECUTION OF ARTICLES OF DISSOLUTION. Articles of dissolution shall be executed by:

(1) the president or vice-president of the corporation and the secretary or assistant secretary of the corporation; or

(2) any two members of the commission.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.184. DELIVERY AND FILING OF ARTICLES OF DISSOLUTION. (a) Three originals of the articles of dissolution shall be delivered to the secretary of state.

(b) The secretary of state shall determine whether the articles of dissolution conform to this chapter. On a determination that the articles conform and on receipt of a \$50 fee, the secretary of state shall:

(1) endorse on each original the word "filed" and the date of the filing;

(2) file one of the originals in the secretary's office;

(3) issue two certificates of dissolution;

(4) attach to each certificate an original of the articles of dissolution; and

(5) deliver a certificate and the attached articles of dissolution to:

(A) the representative of the dissolved corporation; and

(B) the commission.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.185. EFFECT OF ISSUANCE OF CERTIFICATE OF DISSOLUTION. The corporate existence ends on the issuance of the certificate of dissolution except for:

(1) the purpose of any ongoing suit or other proceeding; and

(2) corporate action by a director or officer under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.186. ASSETS ON DISSOLUTION. On dissolution or liquidation of a corporation, the title to all assets, including funds and property, shall be transferred to the commission unless the corporation is a local government corporation, in which case the title shall be transferred to the local governments that created the corporation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.