

CHAPTER 94

S.B. No. 348

AN ACT

relating to the control of certain airports, air navigation facilities, and airport hazard areas.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 14, Municipal Airports Act (Article 46d-14, Vernon's Texas Civil Statutes), is amended by amending Subsections (a) and (c), by relettering part of Subsection (a) as Subsection (a-1), and by adding Subsections (c-1), (c-2), and (c-3) to read as follows:

(a) *Definitions* [~~Authorization~~]. For the purposes of this Section, unless otherwise qualified:

(1) "~~Public~~[, ~~the term~~ "~~public~~]" agency" includes a municipality, as defined in this Act, any agency of the State government and of the United States, and any municipality, political subdivision, and agency of another State.

(2) "~~Governing~~[; ~~and the term~~ "~~governing~~]" body" means the governing body of a county or municipality, and the head of the agency if the public agency is other than a county or municipality.

(3) "~~Airport~~[, ~~and the term~~ "~~airport~~]" hazard area" means any area of land or water upon which an airport hazard might be established if not prevented as provided in this Act.

(4) "*Populous home-rule municipality*" means a home-rule municipality with a population of more than 400,000, according to the most recent federal census.

(a-1) *Authorization*. All powers, privileges, and authority granted to any municipality by this Act may be exercised and enjoyed jointly with any public agency of any other State or of the United States to the extent that the laws of such other State or of the United States permit such joint exercise or enjoyment. If not otherwise authorized by law, any agency of the State government when acting jointly with any municipality, may exercise and enjoy all of the powers, privileges, and authority conferred by this Act upon a municipality.

(c) *Joint Board*. Public agencies acting jointly pursuant to this Section shall create a joint board which shall consist of members appointed by the governing body of each participating public agency. The number to be appointed, their term and compensation, if any, shall be provided for in the joint agreement. Each such joint board shall organize, select officers for terms to be fixed by the agreement, and adopt and amend from time to time rules for its own procedure. The joint board shall have power to plan, acquire, establish, develop, construct, enlarge, improve, maintain, equip, operate, regulate, protect, and police any airport, air navigation facility, or airport hazard area to be jointly acquired, controlled, and operated. *The joint board also may realign, alter, acquire, abandon, or close portions of roads, streets, boulevards, avenues, and alleyways, without a showing of paramount importance, if the portions to be realigned, altered, acquired, abandoned, or closed are within the geographic boundaries of the airport at the time of, or following, the realignment, alteration, acquisition, abandonment, or closing. Any taking of rights-of-way that occurs in the exercise of this power shall be compensated at fair market value. If the constituent public agencies of a joint board are populous home-rule municipalities, these powers are exclusively the powers of the board regardless of whether all or part of the airport, air navigation facility, or airport hazard area is located within or outside the territorial limits of any of the constituent public agencies, and another municipality, county, or other political subdivision shall not enact or enforce a zoning ordinance, subdivision regulation, construction code, or any other ordinance purporting to regulate the use or development of property applicable within the geographic boundaries of the airport as it may be expanded. A joint*[, ~~and such~~] board may exercise on behalf of its constituent public agencies all the powers of each with respect to such airport, air navigation facility, or airport hazard area, subject to the limitations of Subsection (d) of this Section.

(c-1) After March 1, 1993, a joint board, for which the constituent public agencies are populous home-rule municipalities, shall not acquire in fee simple property within a municipality for the purpose of enlarging an airport operated by the joint board, including property acquired in fee simple for the runway protection zone and for the purpose of mitigating the effects of additional airport noise caused by the enlargement of the airport, in more than an aggregate of 10 percent of that portion of the land area of the airport that lies within the geographic boundaries of the municipality, unless the joint board has the consent of that municipality. Any property that is acquired in fee simple for the purpose of mitigating the effects of additional airport noise caused by the enlargement of the airport and is resold shall not be included as part of this 10 percent limit. Any property, real or otherwise, acquired for the purposes set out in this subsection may be acquired by populous home-rule municipalities under Subsection (d)(3) of this section or Chapter 21, Property Code, except that the consent of the municipality in which the property is located shall be required for any acquisition in excess of the 10 percent limit set forth in this subsection.

(c-2) Prohibitions and Agreements. (1) This subsection applies only to a joint board for which the constituent public agencies are populous home-rule municipalities.

(2) The joint board may not construct in a prohibited area:

- (A) a sewer and wastewater treatment plant;
- (B) an above-ground aviation fuel storage facility, not including pipelines for transporting fuel;
- (C) a sanitary landfill site;
- (D) a hazardous-waste disposal site; or
- (E) a facility designed primarily for aircraft engine testing.

(3) An area is a prohibited area for the purposes of the prohibitions described by Subdivisions (2)(A) through (D) of this subsection if the area is within 1,000 feet of any part of the boundary of the airport operated by the joint board as the boundary existed on the date the airport began operations, except that if after that date the boundary is expanded under Subsection (c-1) of this section to include contiguous property, then within 1,000 feet of any part of the boundary of the airport after that expansion. An area is a prohibited area for the purposes of the prohibition described by Subdivision (2)(E) of this subsection if the area is within 500 feet of any part of the boundary of the airport as the boundary existed on the date the airport began operations, except that if after that date the boundary is expanded under Subsection (c-1) of this section by more than 500 feet to include contiguous property, then within 1,000 feet of any part of the boundary of the airport after that expansion.

(4) A prohibition under Subdivision (2) of this subsection does not apply to the construction of:

- (A) a facility or site for which the joint board receives, before beginning construction, the approval of the municipality in which the facility or site is to be located; or
- (B) a deicing facility.

(5) The construction of a deicing facility by the joint board does not require the approval of the municipality in which the facility is to be located.

(6) The joint board may make intergovernmental agreements with political subdivisions of the state.

(c-3) Treatment of Hazardous Waste Prohibited. The joint board may not construct a facility to treat hazardous waste, as defined by Section 361.003, Health and Safety Code, in an area that the joint board acquires and that is subject to the limitation prescribed by Subsection (c-1) of this section without first obtaining the permission of the municipality in which the facility is to be located. This provision does not prohibit any process or other activity related to the deicing of aircraft, transportation or storage of fuel, or cleanup or remediation of a spill or leak.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be

suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on March 15, 1993: Yeas 26, Nays 3, one present not voting; the Senate concurred in House amendments on April 22, 1993: Yeas 30, Nays 0; passed the House, with amendments, on April 19, 1993: Yeas 117, Nays 10, seven present not voting.

Approved May 6, 1993.

Effective May 6, 1993.