

## CHAPTER 102

## H.B. No. 1909

## AN ACT

relating to the powers and duties of the Texas National Research Laboratory Commission; granting authority to issue bonds.

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

SECTION 1. Section 1, Chapter 836, Acts of the 69th Legislature, Regular Session, 1985 (Article 4413(47d), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. It is the determination, policy, and intent of the legislature that the purpose of the Texas National Research Laboratory Commission is to develop a comprehensive plan for the presentation of a *siting* proposal for the Superconducting Super Collider high-energy research facility that is sponsored ~~and~~<sup>and</sup> authorized~~, and funded~~ by the United States government *and if Texas is selected for the site of the Superconducting Super Collider, to represent the state in the development, financing, and operation thereof.* ~~[It is the intent of the legislature that the Texas National Research Laboratory Commission act on behalf of the state to formulate and present the proposal for consideration by the United States government.]~~

SECTION 2. Section 5, Chapter 836, Acts of the 69th Legislature, Regular Session, 1985 (Article 4413(47d), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. (a) The commission shall serve as the coordinating unit and shall be ~~the~~ <sup>an</sup> authority within the state for the formulation of the siting proposal on behalf of the state for the Superconducting Super Collider research facility which is sponsored ~~and~~<sup>and</sup> authorized~~, and funded~~ by the United States government. The commission shall take affirmative steps to coordinate fully all aspects of the development of the plan or proposal with other state, federal, and local agencies and institutions of higher education charged with the development of and interest in locating the scientific research facility in this state. Other state agencies and local governmental entities in this state shall cooperate to the fullest extent possible to effectuate the duties of the commission.

(b) The commission shall have the right to enter any interagency contract with any other agency of the state *or any political subdivision thereof, and the power to contract with the United States government and any of its agencies, and* ~~or~~ with any

private agency, college, university, corporation, partnership, [or] association, or other person for any appropriate purpose in connection with the performance of its duties. Such contracts may include but are not limited to contracts, studies, investigations, and proposals necessary to conduct its duties.

(c) *The commission shall take all other steps appropriate or necessary to effect the siting, development, and operation of the Superconducting Super Collider research facility within the state.*

(d) The commission has the power of eminent domain to acquire for the use of the commission, in fee simple, title to real property that may be necessary and proper for carrying out its purposes in the manner prescribed in Chapter [Section] 21, Property Code.

(e) [(d)] The commission may apply for, request, solicit, contract for, and receive and accept money and other assistance from any source, whether public or private, that is necessary to conduct its duties.

(f) *The commission may acquire by gift or otherwise, hold, encumber, and convey by gift or otherwise, property or interests in property, including leasehold interests, in any manner determined appropriate by the commission.*

(g) *The commission may provide for the formation of a corporation under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) to assist in carrying out the purposes of this Act. The commission may enter agreements with the corporation as the commission considers appropriate to carry out those purposes.*

SECTION 3. Chapter 836, Acts of the 69th Legislature, Regular Session, 1985 (Article 4413(47d), Vernon's Texas Civil Statutes), is amended by adding Section 5A to read as follows:

Sec. 5A. BONDS. (a) *In this section:*

(1) "Bond" means any type of obligation under this Act, including, without limitation, any bond, note, draft, bill, warrant, debenture, interim certificate, revenue or bond anticipation note, or other evidence of indebtedness.

(2) "Eligible undertaking" means any of the following that the commission determines is made necessary by the location of the Superconducting Super Collider research facility in the state: acquisition of land or interests in land; acquisition and construction of buildings, improvements, structures, and utilities; site preparation; architectural, engineering, legal, and related services; acquisition and installation of machinery, equipment, furnishings, and facilities; and acquisition of licenses, permits, and approvals from any governmental entity.

(3) "Fund" means the Superconducting Super Collider Fund in the state treasury.

(4) "Revenue" or "revenues" means:

(A) revenue received by or on behalf of the commission in connection with the Superconducting Super Collider or any eligible undertaking; and

(B) money appropriated to the commission by the legislature for the purpose of paying debt service on the commission's revenue bonds.

(b) *Except as provided by Subsections (m) and (n) of this section, the commission may issue, sell, and deliver general obligation bonds of the state and revenue bonds and may use the proceeds of the bonds to carry out eligible undertakings or fund eligible undertakings carried out by others, to pay the cost of interest on those bonds for the period specified in the resolution authorizing the bonds, and to pay the costs of issuance of those bonds and the administration of the proceeds; provided, however, that the principal amount of general obligation bonds authorized hereunder may not exceed \$500 million and the principal amount of revenue bonds authorized hereunder, which are payable from money appropriated to the commission by the legislature for that purpose, may not exceed \$500 million.*

(c) *Proceeds of general obligation bonds shall be deposited in the fund and applied in accordance with the resolution authorizing the bonds. The fund may, at the direction of the commission, receive from any person, money that is to be adminis-*

tered by the commission and used to carry out eligible undertakings or fund eligible undertakings carried out by others. The fund shall consist of the project account, the interest and sinking account and other accounts that the commission shall authorize to be created and maintained. The fund and the accounts within it shall be held in trust by the state treasurer for and on behalf of the commission and the owners of the general obligation bonds issued in accordance with this section, and may be used (without further appropriation) only as provided by this section. Pending its use, money in the fund shall be invested as provided by any resolution of the commission, and any investment income shall be added to the fund. The treasurer shall invest the fund in investments authorized by law for state deposits. If, during the time any general obligation bonds are payable from the fund, the commission determines that there will not be sufficient money in the interest and sinking account during the following fiscal year to pay the principal of or interest on the general obligation bonds or both the principal and interest that are to come due during the following fiscal year, the comptroller of public accounts shall transfer to the fund the first money coming into the state treasury not otherwise appropriated by the constitution in an amount sufficient to pay the obligations.

(d) Revenue bonds issued under this section are not a debt or pledge of the faith and credit or the taxing power of the state but are payable solely from revenues arising under this section that are pledged to the repayment of the revenue bonds. To the extent that pledged revenues include amounts appropriated by the legislature, the revenue bonds shall state on their face that such revenues shall be available to pay debt service only if appropriated by the legislature for that purpose. Each revenue bond must also contain on its face a statement to the effect that:

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

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

The commission may make additional covenants with respect to the revenue bonds and the pledged revenues and may provide for the flow of funds and the establishment and maintenance and investment of funds, which may include interest and sinking funds, reserve funds, and other funds. Those funds, and the income from investment thereof, shall be kept and maintained in escrow and in trust by the state treasurer for and on behalf of the commission and the owners of its revenue bonds, in funds held outside the treasury pursuant to Section 3.051, Treasury Act (Article 4393-1, Vernon's Texas Civil Statutes). Those funds shall be used only as provided by this section and pending their use shall be invested as provided by any resolution of the commission. The state treasurer shall invest the funds in investments authorized by law for state deposits. The treasurer, as custodian, shall administer those funds strictly and only as provided by this section and in the resolutions of the commission. The state shall take no action with respect to those funds other than that specified in this Act and in the resolutions of the commission. The commission may provide in the resolution authorizing any revenue bonds for the issuance of additional bonds to be equally and ratably secured by a lien on the revenues and receipts, or for the issuance of subordinate lien bonds.

(e) The bonds may be issued from time to time in one or more series or issues, in bearer, registered, or any other form, which may include registered uncertificated obligations not represented by written instruments and commonly known as book-entry obligations, the registration of ownership and transfer of which shall be provided for by the commission under a system of books and records maintained by the commission or by an agent appointed by the commission in a resolution providing for issuance of its bonds. Bonds may mature serially or otherwise not more than 50 years from their date; provided that bonds payable from money appropriated to the commission by the legislature shall not mature or be subject to redemption before September 1, 1989, and the date of the first interest payment to be made from appropriated money shall not be scheduled to occur before September 1, 1989. Bonds

may bear no interest or may bear interest at any rate or rates, fixed, variable, floating, or otherwise, determined by the commission or determined pursuant to any contractual arrangements approved by the commission, not to exceed the maximum net effective interest rate allowed by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes). Interest on the bonds may be payable at any time and the rate of interest on the bonds may be adjusted at such time as may be determined by the commission or as may be determined pursuant to any contractual arrangement approved by the commission. In connection with the issuance of its bonds, the commission may exercise the powers granted to the governing body of an issuer in connection with the issuance of obligations under Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes), to the extent not inconsistent with this section. The bonds may be issued in the form and denominations and executed in the manner and under the terms, conditions, and details determined by the commission in the resolution authorizing their issuance. The bonds shall be signed on behalf of the state by the governor with the seal of the state impressed thereon and attested by the secretary of state. If any officer whose manual or facsimile signature appears on the bonds ceases to be an officer, the signature is still valid and sufficient for all purposes as if the officer had remained in office.

(f) The bonds may be secured additionally by a trust indenture, under which the trustee may be a financial institution, domiciled inside or outside the state, which has trust powers.

(g) All bonds issued by the commission are subject to review and approval by the attorney general in the same manner and with the same effect as is provided by Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes).

(h) Bonds may not be issued under this section unless the issuance has been reviewed and approved by the bond review board. The bond review board is composed of:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the speaker of the house of representatives;
- (4) the state treasurer; and
- (5) the comptroller of public accounts.

The governor is chairman of the review board. The bond review board may adopt rules governing application for review, the review process, and reporting requirements. A member of the bond review board may not be held liable for damages resulting from the performance of the member's functions under this section.

(i) The state pledges to and agrees with the owners of any bonds issued in accordance with this section that the state will not limit or alter the rights vested in the commission to fulfill the terms of any agreements made with the owners of the bonds or in any way impair the rights and remedies of those owners until those bonds, together with any premium and the interest on the bonds and all costs and expenses in connection with any action or proceeding by or on behalf of those owners, are fully met and discharged. The commission is authorized to include this pledge and agreement of the state in any agreement with the owners of those bonds. Payment of the bonds and performance by the commission of its functions and duties under this section and the Texas Constitution may be enforced in the state supreme court by mandamus or other appropriate proceeding.

(j) The bonds are a legal and authorized investment for a bank, trust company, savings and loan association, insurance company, fiduciary, trustee, or guardian or a sinking fund of a municipality, county, school district, or political subdivision of the state.

(k) The bonds may secure deposits of public funds of the state, a municipality, a county, a school district, or another political corporation or subdivision of the state.

*A coupon bond may provide this security up to its value if all unmatured coupons are attached.*

*(l) The commission may issue bonds to refund all or part of its outstanding bonds, including matured but unpaid interest, in the manner provided by any other applicable statute, including Chapter 503, Acts of the 54th Legislature, Regular Session, 1955 (Article 717k, Vernon's Texas Civil Statutes), and Chapter 784, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-3, Vernon's Texas Civil Statutes).*

*(m) The bonds, a transaction relating to the bonds, or a profit made in the sale of the bonds is exempt from taxation by the state, an agency or subdivision of the state, a municipality, or a special district.*

*(n) The authority of the commission to issue general obligation bonds is contingent on adoption of a constitutional amendment authorizing issuance of general obligation bonds for the purposes of this section.*

*(o) The commission may not issue bonds before the Secretary of Energy or other officer of the United States government has announced the final site selection decision to locate a Superconducting Super Collider in this state; provided that the commission may enter into agreements with the United States government or others that will commit the commission to issue bonds for eligible undertakings conditioned on siting of the Superconducting Super Collider in the state.*

SECTION 4. The State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes) is amended by adding Section 3.051 to read as follows:

*Sec. 3.051. PURCHASES BY TEXAS NATIONAL RESEARCH LABORATORY COMMISSION. This Act does not apply to purchases of supplies, materials, services, and equipment for the Texas National Research Laboratory Commission, except that the Texas National Research Laboratory Commission may use the services of the commission for those purchases.*

SECTION 5. 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 by the House on May 7, 1987, by the following vote: Yeas 139, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1909 on May 12, 1987, by the following vote: Yeas 140, Nays 1, 1 present, not voting. Passed by the Senate, with amendments, on May 8, 1987, by the following vote: Yeas 29, Nays 0.

Approved May 14, 1987.

Effective May 14, 1987.