

CHAPTER 949

H.B. No. 2085

AN ACT

relating to the creation, organization, powers, duties, and financing of authorities or entities related to the establishment, construction, operation, maintenance, and enhancement of a superconducting super collider facility and its neighboring communities; providing for the powers, duties, and financing of certain entities which contract with respect to a superconducting super collider facility and its neighboring communities; providing a criminal penalty; granting the power of eminent domain; and limiting the issuance of bonds by and providing for financial audits of the Texas National Research Laboratory Commission.

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

SECTION 1. PURPOSES. The purpose of this Act is to authorize public entities to create a research authority to engage in the planning, financing, acquiring, constructing, owning, operating, and maintaining of eligible projects necessary or incidental to the super collider facility and its neighboring communities, to contribute to the development and diversification of the economy, the elimination of unemployment or underemployment, and the development or expansion of commerce in the state and to authorize entities to enter into contracts in support of such projects and purposes.

SECTION 2. DEFINITIONS. In this Act:

- (1) "Authority" means a research authority created under this Act.
- (2) "Board" means the board of directors of the authority.
- (3) "Bond" means any type of obligation issued by an authority under this Act, including, without limitation, any bond, note, draft, bill, warrant, debenture, interim

certificate, revenue or bond anticipation note, contract for the purchase of property (whether in the form of an installment purchase, conditional purchase, lease with option to purchase, or such other form as the authority may deem appropriate), or other evidence of indebtedness.

(4) "Eligible project" means a project necessary or incidental to the super collider facility and its neighboring communities, including, without limitation, the acquisition, construction, operation, maintenance, or enhancement of land sites, roads, bridges, rights-of-way, housing, real and personal property, equipment, police, fire, medical, cultural, educational, and research services, equipment, institutions and resources, other community support services, flood control, water and wastewater treatment facilities, and other infrastructure improvements and rights of every kind useful in connection with the super collider facility and its neighboring communities.

(5) "Public entity" means any county, city, or other body politic or corporate of the state, including any district or authority created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution.

(6) "Super collider facility" means a superconducting super collider high-energy research facility that is or is proposed to be sponsored, authorized, and funded in part by the United States government.

SECTION 3. CREATION OF AUTHORITY. (a) Two or more public entities, by adoption of substantially identical resolutions, orders, or ordinances, may create a research authority and may specify the authority's powers consistent with this Act. The name of any authority created pursuant to this Act shall include the name or description of the area of the state in which the super collider facility is located or is proposed to be located. After the effective date of the resolutions, orders, or ordinances creating an authority, one or more additional public entities may adopt resolutions, orders, or ordinances substantially identical to those by which the authority was created, upon the consent of the public entities that created the authority. After each public entity has consented to the addition of other public entities, an authority shall be considered to have been created by all of the public entities that have adopted the resolutions, orders, or ordinances. Subject to the terms of any contract, lease, or agreement entered into by the authority, the public entities creating an authority may amend their resolutions, orders, or ordinances creating the authority by the adoption of substantially identical amending resolutions, orders, or ordinances.

(b) An authority shall be governed by a board of directors composed of the number of directors determined by the resolutions, orders, or ordinances creating the authority. Directors shall serve two-year terms expiring June 1 of each odd-numbered year. The board shall elect a chairman from among its members. An employee, officer, or member of the governing body of a public entity may serve as a director of the authority created by that public entity, but directors, officers, and employees of the authority may not have a personal interest, other than as an employee, officer, or member of the governing body of a public entity, in any contracts, leases, or agreements executed by an authority.

SECTION 4. GENERAL POWERS OF AUTHORITY. (a) An authority shall be a separate body politic and corporate and a political subdivision of the state and may:

- (1) sue and be sued;
- (2) enter into contracts, leases, and agreements with and accept donations, grants, and loans from the United States, its departments and agencies, this state, its departments and agencies, counties, municipalities, political subdivisions, and public or private corporations and persons, including those public entities creating the authority;
- (3) acquire, convey, grant, loan, pledge, mortgage, grant a security interest in, or otherwise dispose of, any land, easements, roads, bridges, infrastructure improvements, other property or improvements, services or cash, or interest therein that will permit or aid in the accomplishment of the purposes of this Act, without the necessity of taking competitive bids;
- (4) undertake eligible projects;
- (5) make loans to public or private entities to fund eligible projects;

- (6) issue bonds to fund eligible projects;
- (7) encumber its property, pledge its revenues, and enter into credit agreements, as defined by Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes), to secure its bonds;
- (8) adopt bylaws and exercise any other power consistent with this Act and the resolutions, orders, or ordinances creating the authority;
- (9) exercise the power of eminent domain to acquire land, easements, and property, or interests in land, easements, or property, as determined to be necessary by the board for eligible projects, including the power to take the fee title in land condemned;
- (10) adopt and enforce reasonable rules to carry out its purposes, to secure and maintain safe, efficient, and normal operation and maintenance of the super collider facility and its appurtenant eligible projects, and to regulate privileges on any land, easement, or property interest adjoining the super collider facility site to prevent activities on the adjoining land, easement, or property interest which could adversely affect the safe, efficient, and normal operation and maintenance of the super collider facility or its appurtenant eligible projects;
- (11) exercise any power necessary or useful in connection with an eligible project; and
- (12) generally perform any and all acts necessary for the full exercise of the powers vested in the authority and shall have the functions, powers, authority, rights, and duties which will permit accomplishment of the purposes for which it was created.

(b) A person who violates a rule adopted under Subsection (a)(10) of this section shall be guilty of committing an offense that is a Class C misdemeanor.

SECTION 5. RELATED POWERS OF PUBLIC ENTITIES AND STATE AGENCIES. (a) In addition to the powers conferred upon a public entity or state agency by state law or by charter and notwithstanding any state law or charter provision to the contrary, to carry out the purposes of this Act a public entity or state agency, without further authorization except as required by the constitution may:

- (1) enter into contracts, leases, and agreements with and accept donations, grants, and loans from the United States, its departments and agencies, this state, its departments and agencies, counties, municipalities, political subdivisions, and public or private corporations and persons, including any authority and the Texas National Research Laboratory Commission, participate in or undertake eligible projects, and use its funds, including tax revenues, to plan, acquire, construct, own, operate, maintain, or enhance eligible projects, including in the case of a public entity, eligible projects located outside the jurisdiction or boundaries of a public entity if, in the determination of the governing body of the public entity, the project will contribute to the development and diversification of the economy, the elimination of unemployment or underemployment, or the development or expansion of commerce within the public entity;
- (2) levy taxes in order to provide for payment of amounts required under contracts, leases, and agreements with the United States, its departments and agencies, this state, its agencies, counties, municipalities, political subdivisions, public or private corporations and persons, including any authority and the Texas National Research Laboratory Commission, participate in or undertake eligible projects, and pledge tax revenues to the payment of the contracts, leases, and agreements; provided, however, nothing in this Act shall be construed as altering or otherwise affecting the power of the state or any state agencies to levy or collect taxes or set rates therefor;
- (3) acquire, convey, grant, loan, pledge, mortgage, grant a security interest in, or otherwise dispose of, any land, easements, roads, bridges, infrastructure improvements, other property or improvements, services or cash, or interest therein that will permit or aid in the accomplishment of the purposes of this Act, without the necessity of taking competitive bids; and
- (4) adopt and enforce reasonable rules:
 - (A) to secure and maintain safe, efficient, and normal operation and maintenance of the super collider facility and its appurtenant eligible projects;

(B) in the case of a public entity, to regulate privileges on any land, easement, or property interest that are located within the jurisdiction or boundaries of the public entity and that adjoin the super collider facility site; and

(C) to prevent activities on adjoining land, easement, or property interest that would adversely affect the safe, efficient, and normal operation and maintenance of the super collider facility or its appurtenant eligible projects; provided, a state agency may not exercise the rulemaking powers of this subdivision. Public entities and any authority are encouraged to cooperate in the adoption and enforcement of such rules to achieve a uniformity of standards applicable to the regulation of privileges and activities on the land, easement, or property interest adjoining the super collider facility site.

(b) A person who violates a rule adopted under Subdivision (a)(4) of this section shall be guilty of committing an offense that is a Class C misdemeanor.

(c) It is the intention of the legislature that elections not be required to authorize a public entity to enter into a contract, lease, or agreement payable from taxes or otherwise with an authority under this Act, inasmuch as the contract, lease, or agreement is not a bond or obligation of a public entity issued for the purpose of making loans or grants payable from ad valorem taxes, within the meaning of H.J.R. 5, 70th Legislature, Regular Session, 1987. However, any election that is otherwise required under the constitution to be held by a public entity to authorize a contract, lease, or agreement proposed to be entered into under this Act shall be held pursuant to the applicable law governing bond elections for the public entity.

(d) Any contract, lease, or agreement, the parties to which include an authority and one or more public entities, that is payable in whole or in part from ad valorem property taxes levied by a public entity may contain a provision that the authority will establish a uniform tax rate (not to exceed the maximum rate set forth in such contract, lease, or agreement) which each of the participating public entities will be obligated to levy and collect on behalf of the authority and pay over to the authority as provided in the contract, lease, or agreement. Payments made pursuant to a contract, lease, or agreement, the parties to which include an authority and one or more public entities, that are payable in whole or in part from ad valorem property taxes shall constitute payment of principal and interest on an evidence of indebtedness of the public entity for purposes of Sections 26.04(c), (d), and (e), Tax Code, notwithstanding that the contract, lease, or agreement may not satisfy the requirements of Section 26.04(g), Tax Code, or pay principal and interest on bonds of the authority.

SECTION 6. BONDS. (a) By resolution, an authority may authorize the issuance, sale, and delivery of bonds for the accomplishment of its purposes. Any bonds that are payable from ad valorem property taxes levied by a public entity to pay principal and interest on bonds of an authority may be issued only after an affirmative vote of the qualified voters of the public entities which comprise that authority. To accomplish the purposes of this Act, an authority has the powers granted to industrial development corporations by Sections 23, except the limitations provided by Subsection (a)(11) of that Act, 25(e), 26, 27, and 29, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), but is otherwise governed by this Act. In connection with the issuance of bonds, an authority 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). This section is cumulative of all laws affecting the issuance of bonds by political subdivisions, including but not limited to Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes), and the Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes), but to the extent of any conflict between this section and other laws, the provisions of this Act shall prevail.

(b) The bonds shall not be a debt or pledge of the faith and credit of the state, the authority, or any public entity, but shall be payable solely from revenues arising under this Act, from grants provided by public or private entities, including the United States, its departments and agencies, and this state, its departments and agencies, counties, municipalities, and political subdivisions and/or from contracts, leases, or agreements with public or private entities. An authority may pledge to the payment of any bond the

revenues of all or part of eligible projects acquired or undertaken by the authority, including or not including those eligible projects undertaken after the issuance of the bonds, present and future grants received from public or private entities, including the United States, its departments and agencies, and this state, its departments and agencies, counties, municipalities, and political subdivisions and from contracts, leases, or agreements with public or private entities, as the board shall determine. Any bond issued by an authority pursuant to this Act shall contain on its face a statement of the limitation set forth in this subsection.

(c) An authority may set aside from the proceeds of the sale of bonds amounts for payments into the interest and sinking fund and reserve funds, and for interest and operating expenses during construction and development, as specified in the authorizing proceedings. Bond proceeds may be invested, pending their use, in securities, interest-bearing certificates, and time deposits as specified in the authorizing proceedings.

(d) The bonds may be executed and delivered at any time as a single issue or from time to time as several issues, and may be in any denomination and form, including 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 department under a system of books and records maintained by a financial institution domiciled inside or outside the state and serving as trustee, paying agent, or bond registrar. The bonds of an authority shall be signed by the chairman or the assistant chairman of the authority, be attested by its secretary, and bear the seal of the authority. The signatures may be printed or lithographed on the bonds if authorized by the authority, and the seal may be impressed on the bonds or may be printed or lithographed on the bonds. The authority may adopt or use for any purpose the signature of a person who has been an officer, regardless of whether the person has ceased to be an officer at the time that bonds are delivered to a purchaser or purchasers. The bonds must mature serially or otherwise not to exceed 40 years from their respective dates of issuance and may be sold at a public or private sale at a price or under terms determined by the authority to be the most advantageous reasonably obtainable, within the discretion of the authority. The bonds may bear no interest or may bear interest at any rate or rates, fixed, variable, floating, or otherwise determined by the authority or determined under a contractual arrangement approved by the authority, 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). The bonds may be made subject to redemption prior to maturity at times and prices approved by the authority.

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

(f) The bonds shall be legal and authorized investments 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 this state.

(g) The bonds may be used to secure deposits of public funds of this state and municipalities, counties, school districts, or other political corporations or subdivisions of this state. Bonds shall be lawful and sufficient security for those deposits to the extent of the principal amount of the bonds or their value on the market, whichever is less, when accompanied by all unmatured coupons, if any, attached thereto.

(h) An authority may issue bonds to refund all or part of its outstanding bonds, including unpaid interest, in the manner provided by general law, including, without limitation, 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), as amended.

(i) The bonds, any interest on the bonds, any transaction relating to the bonds, and any profit made in the sale of the bonds shall be exempt from taxation by this state, any agency or instrumentality of this state, any county, municipality, special district, or other political subdivision of this state.

(j) The bonds may not be issued until the secretary of energy or other officer of the United States government has signed a record of decision setting forth a decision to locate the super collider facility in this state.

SECTION 7. USE OF PROCEEDS. The proceeds of bonds shall be used to finance eligible projects, professional and consulting fees and expenses related thereto, and the payment of costs of issuance of bonds. The authority may expend funds, including tax revenues or other money received by the authority from a public entity, to finance eligible projects located outside the jurisdiction or boundaries of the public entity, if in the determination of the governing body of the public entity, the eligible projects will contribute to the development and diversification of the economy, the elimination of unemployment or underemployment, or the development or expansion of commerce within the public entity.

SECTION 8. TAX EXEMPTION. An authority and its properties, income, and operations shall be exempt from ad valorem property taxes and other taxes imposed by this state, any agency or instrumentality of this state, or any county, municipality, special district, or other political subdivision of this state.

SECTION 9. LOANS AND GRANTS. A public entity may make loans and grants of public money or property for eligible projects that contribute to the public purposes of development and diversification of the economy of this state, the elimination of unemployment and underemployment in this state, or the development or expansion of transportation or commerce in this state.

SECTION 10. INTERPRETATION AND CONSTRUCTION OF ACT. This Act shall be liberally construed to carry out its purposes and shall be the full and complete authority for the creation and operation of a research authority and the performance of the public duties imposed upon such research authority. To the extent that this Act is inconsistent with any other laws regulating the affairs of municipal corporations, or with any home-rule charter provisions, this Act shall prevail and control.

SECTION 11. CONFORMING AMENDMENT. Chapter 836, Acts of the 69th Legislature, Regular Session, 1985 (Article 4413(47d), Vernon's Texas Civil Statutes), is amended by adding Sections 5B and 7A to read as follows:

Sec. 5B. LIMIT ON BOND ISSUANCE. The Texas National Research Laboratory Commission may not issue bonds after August 31, 1991.

Sec. 7A. AUDIT. The state auditor shall audit the financial transactions of the Texas National Research Laboratory Commission during each fiscal year.

SECTION 12. EMERGENCY. 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 20, 1987, by a non-record vote; that the House refused to concur in Senate amendments to H.B. No. 2085 on May 30, 1987, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 2085 on June 1, 1987, by a non-record vote. Passed by the Senate, with amendments, on May 29, 1987, by the following vote: Yeas 30, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 2085 on June 1, 1987, by a viva-voce vote.

Approved June 20, 1987.

Effective Aug. 31, 1987, 90 days after date of adjournment.