

LOCAL GOVERNMENT CODE

TITLE 12. PLANNING AND DEVELOPMENT

SUBTITLE A. MUNICIPAL PLANNING AND DEVELOPMENT

CHAPTER 379B. DEFENSE BASE DEVELOPMENT AUTHORITIES

Sec. 379B.001. DEFINITIONS. In this chapter:

(1) "Authority" means a defense base development authority established under this chapter.

(2) "Base efficiency project" means a demonstration project between a municipality and the United States Department of Defense to evaluate and demonstrate methods for more efficient operation of military installations through improved capital asset management and greater reliance on the public or private sector for less costly base support services and to improve mission effectiveness and reduce the cost of providing quality installation support at military facilities under Pub. L. No. 106-246 or other applicable federal laws.

(3) "Base property" means land inside the boundaries of the defense base for which the authority is established and improvements and personal property on that land.

(4) "Board" means the board of directors of the authority.

(5) "Bond" means an interest-bearing obligation issued by an authority under this chapter, including a bond, certificate, note, or other evidence of indebtedness.

(6) "Defense base" means a military installation or facility that is:

(A) closed or realigned under the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. Section 2687 note) and its subsequent amendments; or

(B) the subject of a base efficiency project.

Added by Acts 1999, 76th Leg., ch. 1221, Sec. 1, eff. Aug. 30, 1999.

Amended by Acts 2001, 77th Leg., ch. 257, Sec. 1, eff. Sept. 1, 2001. Renumbered from Local Government Code Sec. 378.001 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(108), eff. Sept. 1, 2003.

Sec. 379B.0012. APPLICATION OF OTHER LAW. (a) In this

section, "qualifying project" means any real estate project involving the construction of:

(1) tenant finish-out or construction of a build-to-suit facility for a tenant who, through the execution of a lease with an authority, pays for or reimburses the authority for the cost of the improvements;

(2) infrastructure improvements, including roads, driveways, or utility extensions, made in connection with the sale or lease of property owned by the authority and for which the proceeds of the sale or the lease are used to reimburse the authority for the infrastructure improvements; or

(3) an income-producing facility that generates revenue for the authority and that is constructed by a private developer with special expertise in development.

(b) Chapters 2267 and 2269, Government Code, do not apply to a qualifying project of an authority.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1294 (H.B. 2388), Sec. 1(b), eff. June 14, 2013.

Sec. 379B.002. ESTABLISHMENT; SUCCESSOR. (a) A municipality by resolution may establish an authority. The resolution must include a legal description of the base property. On adoption of the resolution, the authority is established as a special district and political subdivision of this state, with a boundary coterminous with the base property described in the resolution.

(b) When establishing an authority, the municipality may designate the authority in the municipality's resolution to be the successor in interest to a nonprofit corporation organized under the Development Corporation Act (Subtitle C1, Title 12). On adoption of the resolution, the corporation is dissolved and the authority succeeds to all rights and liabilities of that corporation.

Added by Acts 1999, 76th Leg., ch. 1221, Sec. 1, eff. Aug. 30, 1999. Renumbered from Local Government Code Sec. 378.002 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(108), eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.24, eff. April 1, 2009.

Sec. 379B.003. PURPOSE AND NATURE OF AUTHORITY. (a) An authority is created to:

(1) accept title to or operate under a lease from the United States or any other person all or a part of the base property and areas around the base property and engage in the economic development of the base property and areas around the base property; or

(2) carry out a base efficiency project.

(b) An authority created under Subsection (a)(2) may not operate a defense base that has been closed or realigned under the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. Section 2687 note) and its subsequent amendments.

(c) An authority exercises public and essential governmental functions.

Added by Acts 1999, 76th Leg., ch. 1221, Sec. 1, eff. Aug. 30, 1999.

Amended by Acts 2001, 77th Leg., ch. 257, Sec. 2, eff. Sept. 1, 2001. Renumbered from Local Government Code Sec. 378.003 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(108), eff. Sept. 1, 2003.

Sec. 379B.004. POWERS AND DUTIES OF AUTHORITY. (a) An authority may exercise power necessary or convenient to carry out a purpose of this chapter, including the power to:

(1) adopt an official seal, or alter it;

(2) adopt rules;

(3) enter into a contract or incur a liability;

(4) acquire and dispose of money;

(5) select a depository;

(6) establish a system of accounts for the authority;

(7) invest funds in accordance with Chapter 2256, Government Code;

(8) set the fiscal year for the authority;

(9) adopt an annual operating budget for major expenditures before the beginning of the fiscal year;

(10) borrow money or issue a bond in an amount that

does not exceed the maximum amount set by the board;

(11) loan money;

(12) acquire, lease, lease-purchase, convey, grant a mortgage on, or otherwise dispose of a property right, including a right regarding base property;

(13) lease property located on the base property to a person to effect the purposes of this chapter;

(14) request and accept a donation, grant, guaranty, or loan from any source permitted by law;

(15) operate and maintain an office;

(16) charge for the use, lease, or sale of an open space or a facility;

(17) exercise a power granted to a municipality by Chapter 380;

(18) authorize by resolution the incorporation of a nonprofit airport facility financing corporation as provided and authorized by Subchapter E, Chapter 22, Transportation Code, to provide financing to pay the costs, including interest, and reserves for the costs of an airport facility authorized by that chapter and for other purposes set forth in the articles of incorporation;

(19) exercise the powers granted to a local government for the financing of facilities to be located on airport property, including those set out in Chapter 22, Transportation Code, consistent with the requirements and the purposes of Section 52-a, Article III, Texas Constitution;

(20) lease, own, and operate an airport and exercise the powers granted to municipalities and counties by Chapter 22, Transportation Code;

(21) lease, own, and operate port facilities for air, trucking, and rail transportation;

(22) provide security for port functions, facilities, and operations;

(23) cooperate with and participate in programs and security efforts of this state and the federal Department of Homeland Security; and

(24) participate as a member or partner of a limited

liability company, a limited liability partnership, or other entity organized to finance a project designated as a redevelopment project under Section [379B.009](#).

(b) An authority shall establish and maintain an office and agent registered with the secretary of state.

(c) An authority shall endeavor to raise revenue sufficient to pay its debts.

Added by Acts 1999, 76th Leg., ch. 1221, Sec. 1, eff. Aug. 30, 1999.

Amended by Acts 2001, 77th Leg., ch. 1516, Sec. 1, eff. June 17, 2001. Renumbered from Local Government Code Sec. 378.004 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(108), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 873 (S.B. [1090](#)), Sec. 1, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 702 (H.B. [447](#)), Sec. 1, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 866 (H.B. [2761](#)), Sec. 1, eff. June 15, 2017.

Sec. 379B.0041. INLAND PORT AND TRADE POWERS. (a) The authority may establish and operate an inland port and related port facilities to engage in world trade.

(b) The authority may participate in national and international agreements advancing world trade at the port.

Added by Acts 2007, 80th Leg., R.S., Ch. 1120 (H.B. [3879](#)), Sec. 1, eff. September 1, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 1382 (S.B. [1237](#)), Sec. 1, eff. September 1, 2007.

Sec. 379B.0042. SERVICES. An authority may charge for a service provided, including:

(1) professional consultation services provided in relation to international trade, planning, land use, or construction;

(2) real estate development services, including an employee licensed under Chapter [1101](#), Occupations Code, acting as a broker;

(3) support or participation in the acquisition of venture capital to finance the authority's redevelopment project, both inside and outside the authority;

(4) participation in or assistance on a joint venture composed of both public and private entities;

(5) promotion of an activity that creates employment opportunities; and

(6) any other service provided in relation to a project undertaken by the authority, alone or with others, to fulfill an authority purpose or objective.

Added by Acts 2011, 82nd Leg., R.S., Ch. 702 (H.B. 447), Sec. 2, eff. September 1, 2011.

Sec. 379B.0043. TRANSPORTATION PROJECT. (a) An authority may implement a transportation project:

(1) on the base property; or

(2) outside of the base property to provide access to the base property.

(b) An authority may enter into an agreement with any person, including another governmental entity, to plan, finance, construct, or maintain a project described by Subsection (a).

(c) An authority may construct a building, loading dock, or other facility as part of a transportation project described by Subsection (a)(1).

Added by Acts 2011, 82nd Leg., R.S., Ch. 702 (H.B. 447), Sec. 2, eff. September 1, 2011.

Sec. 379B.0045. EMINENT DOMAIN. (a) An authority or an authority whose subject property is within the territorial limits of a municipality may exercise the power of eminent domain to acquire property in the base property or in an area surrounding the base only in the manner provided by Chapter 21, Property Code.

(b) Before the authority initiates an eminent domain proceeding to acquire property, the board must:

(1) adopt a master development and redevelopment plan for the property in the base property or in an area surrounding the base and incorporate and approve the plan as part of the master plan

of the municipality in which the base property is located; and

(2) find, after conducting a public hearing, that:

(A) notice of the hearing was published in a newspaper of general circulation in the municipality in which the base property is located not later than the 15th day before the date of the hearing;

(B) the property lies in a redevelopment project designated under Section 379B.009; and

(C) the use of eminent domain is necessary to acquire the property to carry out the essential objectives of the master development and redevelopment plan as approved by the municipality.

Added by Acts 2003, 78th Leg., ch. 1116, Sec. 1, eff. June 20, 2003.

Renumbered from Local Government Code, Section 378.0045 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(67), eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1120 (H.B. 3879), Sec. 2, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1382 (S.B. 1237), Sec. 2, eff. September 1, 2007.

Sec. 379B.005. SUITS; INDEMNITY. (a) An authority may sue and be sued.

(b) In a suit against an authority, process may be served on the president, vice president, or registered agent.

(c) An authority may not be required to give a bond on an appeal or writ of error taken in a civil case that the authority is prosecuting or defending.

(d) An authority may indemnify an authority employee or board member or a former authority employee or board member for necessary expenses and costs, including attorney's fees, incurred by that person in connection with a claim asserted against that person if:

(1) the claim relates to an act or omission of the person when acting in the scope of the person's board membership or authority employment; and

(2) the person has not been found liable or guilty on the claim.

Added by Acts 1999, 76th Leg., ch. 1221, Sec. 1, eff. Aug. 30, 1999.
Renumbered from Local Government Code Sec. 378.005 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(108), eff. Sept. 1, 2003.

Sec. 379B.006. UTILITIES FOR AUTHORITIES CREATED IN POPULOUS MUNICIPALITY. (a) This section applies only to an authority created by a municipality with a population of 50,000 or more.

(b) An authority may accept an electric, gas, potable water, or sanitary sewage utility conveyed by the United States but may not operate it.

(c) An authority shall convey a utility received under Subsection (b) to the municipality that established the authority. The municipality shall pay the authority fair market value for the utility.

(d) If state or federal law prohibits the operation or ownership of the utility by the municipality, the municipality shall convey the utility to an entity that may operate it. The municipality may charge fair market value for the conveyance.

Added by Acts 1999, 76th Leg., ch. 1221, Sec. 1, eff. Aug. 30, 1999.
Amended by Acts 2001, 77th Leg., ch. 1069, Sec. 1, eff. Sept. 1, 2001. Renumbered from Local Government Code Sec. 378.006 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(108), eff. Sept. 1, 2003.

Sec. 379B.0065. UTILITIES FOR AUTHORITIES CREATED IN LESS POPULOUS MUNICIPALITY. (a) This section applies only to an authority created by a municipality with a population of less than 50,000.

(b) An authority may own an electric, sewer service, or water supply utility and may sell those utility services to a person who leases real property from the authority.

Added by Acts 2001, 77th Leg., ch. 1069, Sec. 2, eff. Sept. 1, 2001.
Renumbered from Local Government Code Sec. 378.0065 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(108), eff. Sept. 1, 2003.

Sec. 379B.007. BOARD OF DIRECTORS. (a) The board consists of 11 members.

(b) The board is responsible for the management, operation, and control of the authority.

(c) The governing body of the municipality that established the authority shall appoint each board member to a term not exceeding two years.

(d) A vacancy on the board is filled in the same manner as the original appointment.

(e) The municipality may remove a board member by adopting a resolution.

(f) The members of the board shall elect from its membership:

(1) a president and vice president or a chairperson and vice chairperson; and

(2) a secretary and a treasurer.

(f-1) The board by rule may provide for the election of other officers.

(g) A board member serves without compensation but may be reimbursed for a reasonable and necessary expense incurred in the performance of an official duty.

(h) The board shall adopt rules for its proceedings and may employ and compensate persons to carry out the powers and duties of the authority.

Added by Acts 1999, 76th Leg., ch. 1221, Sec. 1, eff. Aug. 30, 1999.

Amended by Acts 2001, 77th Leg., ch. 1069, Sec. 3, eff. Sept. 1, 2001. Renumbered from Local Government Code Sec. 378.007 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(108), eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 367 (H.B. [1345](#)), Sec. 1, eff. September 1, 2009.

Sec. 379B.0075. ADDITIONAL REQUIREMENTS FOR BOARD OF DIRECTORS CREATED IN LESS POPULOUS MUNICIPALITY. (a) In this section, "county" means the county in which the majority of the municipality that created the authority is located.

(b) This section applies only to an authority created by a

municipality with a population of less than 50,000.

(c) Each board member serves a two-year term and is appointed as follows:

(1) the county shall appoint four members, including a member of the county's governing body;

(2) junior colleges located in whole or in part in the county, if any, jointly shall appoint three members; and

(3) the municipality that established the authority shall appoint:

(A) four members, including a member of the municipality's governing body, if the county in which the authority is located contains a junior college; or

(B) seven members, including a member of the municipality's governing body, if the county in which the authority is located does not contain a junior college.

(d) The entity that appoints a board member may remove a board member by adopting a resolution or order, as appropriate.

(e) Sections 378.007(c) and (e) do not apply to an authority to which this section applies.

Added by Acts 2001, 77th Leg., ch. 1069, Sec. 4, eff. Sept. 1, 2001.
Renumbered from Local Government Code Sec. 378.0075 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(108), eff. Sept. 1, 2003.

Sec. 379B.008. POWERS AND DUTIES OF BOARD. (a) The board of an authority shall, if consistent with the purposes for which the authority was created under Section [378.003](#):

(1) monitor the proposed closing of the defense base;

(2) manage and operate the defense base transition and development on behalf of the municipality that established the authority;

(3) review options related to the most appropriate use of the defense base;

(4) conduct a study on issues related to the closure, conversion, redevelopment, and future use of the defense base;

(5) formulate, adopt, and implement a plan to convert and redevelop the defense base;

(6) submit the plan to an appropriate agency or

agencies of the federal government; and

(7) manage the property used for a base efficiency project.

(b) For the base property and areas adjacent to the base property the board shall:

(1) promote economic development;

(2) attempt to reduce unemployment;

(3) encourage the development of new industry by private businesses; and

(4) encourage financing of projects designated under Section 379B.009.

Added by Acts 1999, 76th Leg., ch. 1221, Sec. 1, eff. Aug. 30, 1999.

Amended by Acts 2001, 77th Leg., ch. 257, Sec. 3, eff. Sept. 1, 2001. Renumbered from Local Government Code Sec. 378.008 and amended by Acts 2003, 78th Leg., ch. 1275, Sec. 2(108), 3(34), eff. Sept. 1, 2003.

Sec. 379B.0085. HEARINGS BY TELEPHONE OR SIMILAR MEANS. (a) As an exception to Chapter 551, Government Code, and other law, if the chairperson, president, vice chairperson, or vice president of a board, or chairperson or vice chairperson of a board committee, is physically present at a meeting of the board or committee, any number of the other members of the board or committee may attend the meeting by use of telephone conference call, video conference call, or other similar telecommunication device. This subsection applies for purposes of constituting a quorum, for purposes of voting, and for any other purpose allowing a board or committee member to otherwise fully participate in any board or committee meeting. This subsection applies without exception with regard to the subject of the meeting or topics considered by the members.

(b) A meeting held by use of telephone conference call, video conference call, or other similar telecommunication device:

(1) is subject to the notice requirements applicable to other meetings;

(2) must specify in the notice of the meeting the location of the meeting at which the president, vice president, chairperson, or vice chairperson will be physically present;

(3) must be open to the public and audible to the public at the location specified in the notice of the meeting as the location of the meeting at which the president, vice president, chairperson, or vice chairperson will be physically present; and

(4) must provide two-way audio communication between all board or committee members attending the meeting during the entire meeting, and if the two-way audio communication link with any member attending the meeting is disrupted at any time, the meeting may not continue until the two-way audio communication link is reestablished.

Added by Acts 2007, 80th Leg., R.S., Ch. 1120 (H.B. 3879), Sec. 3, eff. September 1, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 1382 (S.B. 1237), Sec. 3, eff. September 1, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 367 (H.B. 1345), Sec. 2, eff. September 1, 2009.

Sec. 379B.009. REDEVELOPMENT PROJECTS. (a) The board may designate as a redevelopment project a project that relates to:

(1) the development of base property and the surrounding areas; or

(2) the development of property directly related to the purposes or goals of the authority.

(b) A project designated under Subsection (a) is for a public purpose.

Added by Acts 1999, 76th Leg., ch. 1221, Sec. 1, eff. Aug. 30, 1999.

Renumbered from Local Government Code Sec. 378.009 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(108), eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1120 (H.B. 3879), Sec. 4, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1382 (S.B. 1237), Sec. 4, eff. September 1, 2007.

Sec. 379B.010. BONDS. (a) An authority may issue bonds if authorized by board resolution.

(b) A bond issued under this chapter must:

- (1) be payable solely from authority revenue;
- (2) mature not later than 40 years after its date of issuance; and
- (3) state on its face that it is not an obligation of this state or the municipality.

(c) An authority issuing bonds under this section may exercise the powers granted to the governing body of an issuer with regard to the issuance of obligations and the execution of credit agreements under Chapter 1371, Government Code.

Added by Acts 1999, 76th Leg., ch. 1221, Sec. 1, eff. Aug. 30, 1999.

Amended by Acts 2001, 77th Leg., ch. 1516, Sec. 2, eff. June 17, 2001. Renumbered from Local Government Code Sec. 378.010 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(108), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 873 (S.B. 1090), Sec. 2, eff. September 1, 2005.

Sec. 379B.011. TAX EXEMPTIONS. (a) An authority's property, income, and operations are exempt from taxes imposed by the state or a political subdivision of the state.

(b) Section 25.07(a), Tax Code, applies to a leasehold or other possessory interest in real property granted by an authority for a project designated under Section 379B.009(a) in the same manner as it applies to a leasehold or other possessory interest in real property constituting a project described by Section 505.161, except for the requirement in Section 505.161 that the voters of the municipality that created the authority have authorized the levy of a sales and use tax for the benefit of the authority.

(c) A commercial aircraft to be used as an instrumentality of commerce that is under construction inside the authority is presumed to be in interstate, international, or foreign commerce and not located in this state for longer than a temporary period for purposes of Sections 11.01 and 21.02, Tax Code.

(d) Tangible personal property located inside the authority is presumed to be in interstate, international, or foreign commerce and not located in this state for longer than a temporary period for

purposes of Sections 11.01 and 21.02, Tax Code, if the owner demonstrates to the chief appraiser for the appraisal district in which the authority is located that the owner intends to incorporate the property into or attach the property to a commercial aircraft described by Subsection (c).

(e) In this section, "commercial aircraft" means an aircraft under construction that is designed to be used as described by Section 21.05(e), Tax Code.

Added by Acts 1999, 76th Leg., ch. 1221, Sec. 1, eff. Aug. 30, 1999. Renumbered from Local Government Code Sec. 378.011 and amended by Acts 2003, 78th Leg., ch. 1275, Sec. 2(108), 3(35), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 873 (S.B. 1090), Sec. 3, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.25, eff. April 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1378 (H.B. 1348), Sec. 1, eff. January 1, 2014.

Sec. 379B.012. DISSOLUTION FOR AUTHORITIES CREATED IN POPULOUS MUNICIPALITY. (a) This section applies only to an authority created by a municipality with a population of 50,000 or more.

(b) The governing body of a municipality that established the authority by resolution may dissolve the authority after all debts or obligations of the authority have been satisfied.

(c) Property of the authority that remains after dissolution is conveyed to the municipality.

Added by Acts 1999, 76th Leg., ch. 1221, Sec. 1, eff. Aug. 30, 1999. Amended by Acts 2001, 77th Leg., ch. 1069, Sec. 5, eff. Sept. 1, 2001. Renumbered from Local Government Code Sec. 378.012 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(108), eff. Sept. 1, 2003.

Sec. 379B.013. DISSOLUTION FOR AUTHORITIES CREATED IN LESS POPULOUS MUNICIPALITY. (a) In this section, "county" means the county in which the majority of the municipality that created the

authority is located.

(b) This section applies only to an authority created by a municipality with a population of less than 50,000.

(c) The authority may be dissolved if:

(1) all debts or obligations of the authority have been satisfied; and

(2) the dissolution is authorized by order or resolution of:

(A) the governing body of the municipality that established the authority;

(B) the county; and

(C) each junior college in the county, if the county in which the authority is located contains a junior college.

(d) Property of the authority that remains after dissolution is conveyed to the municipality.

Added by Acts 2001, 77th Leg., ch. 1069, Sec. 6, eff. Sept. 1, 2001.

Renumbered from Local Government Code Sec. 378.013 by Acts 2003,

78th Leg., ch. 1275, Sec. 2(108), eff. Sept. 1, 2003.