

By: Gonzales of Williamson

H.B. No. 3951

A BILL TO BE ENTITLED

AN ACT

relating to the functions of the Texas Department of Transportation relating to aircraft owned or leased by the state; authorizing an increase in rates charged for the use of state aircraft to provide for the acquisition of replacement aircraft.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2167.001(a), Government Code, is amended to read as follows:

(a) This chapter applies to:

- (1) office space;
- (2) warehouse space;
- (3) laboratory space;
- (4) storage space exceeding 1,000 gross square feet;
- (5) boat storage space;
- (6) aircraft hangar space other than hangar space and adjacent space leased by the Texas Department of Transportation ~~[State Aircraft Pooling Board]~~ at Austin-Bergstrom International Airport and operated for the purpose of providing air transportation services for the State of Texas;
- (7) vehicle parking space; and
- (8) a combination of those kinds of space.

SECTION 2. Section 2175.191(c), Government Code, is amended to read as follows:

(c) Proceeds from the sale of surplus and salvage property

1 of the Texas Department of Transportation relating to the
2 department's duties under Chapter 2205 [~~State Aircraft Pooling~~
3 ~~Board~~] shall be deposited to the credit of the department [~~board~~].

4 SECTION 3. The heading to Subchapter A, Chapter 2205,
5 Government Code, is amended to read as follows:

6 SUBCHAPTER A. [~~STATE AIRCRAFT POOLING BOARD,~~] GENERAL PROVISIONS

7 SECTION 4. Section 2205.002(1), Government Code, is amended
8 to read as follows:

9 (1) "Department [~~Board~~]" means the Texas Department of
10 Transportation [~~State Aircraft Pooling Board~~].

11 SECTION 5. Section 2205.012, Government Code, is amended to
12 read as follows:

13 Sec. 2205.012. STAFF. [~~(a)~~] The department [~~board~~] may
14 employ and compensate staff as provided by legislative
15 appropriation or may use staff provided by the comptroller or the
16 state auditor's office.

17 [~~(b) The board shall develop and implement policies that~~
18 ~~clearly define the respective responsibilities of the board and the~~
19 ~~staff the board uses.~~]

20 SECTION 6. Section 2205.032, Government Code, is amended to
21 read as follows:

22 Sec. 2205.032. CUSTODY, CONTROL, OPERATION, AND
23 MAINTENANCE. (a) The department [~~board~~] shall operate a pool for
24 the custody, control, operation, and maintenance of all aircraft
25 owned or leased by the state.

26 (b) The department [~~board~~] may purchase aircraft with funds
27 appropriated for that purpose.

(c) As part of the strategic plan that the department ~~[board]~~ develops and submits under Chapter 2056, the department ~~[board]~~ shall develop a long-range plan for its pool of aircraft. The department ~~[board]~~ shall include ~~[appropriate portions of]~~ the long-range plan in the department's ~~[its]~~ legislative appropriations request if the department identifies the need for additional appropriations and the additional appropriations are related to the department's duties under this chapter. The long-range plan must include:

(1) estimates of future aircraft replacement needs and other fleet management needs, including:

(A) any projected need to increase or decrease the number of aircraft in the pool;

(B) estimates of the remaining useful life for each aircraft in the pool; and

(C) a proposed schedule for replacing aircraft in the pool;

(2) a range of alternatives and scenarios for the number and types of aircraft in the pool;

(3) an analysis of current usage of aircraft in the pool, including customer base and documented rationale for use;

(4) the status of maintenance time and costs and projected future trends regarding maintenance time and costs;

(5) any documented high-risk mechanical issues with aircraft in the pool;

(6) an analysis of the costs and benefits of different methods for meeting air transportation currently provided by the

department under Section 2205.036, including:

(A) the potential use of statewide contracts for private charter aircraft services;

(B) increased reliance on commercial carriers for routine travel;

(C) decreasing the number of aircraft in the pool and increasing the use of contracted flight services; and

(D) any other method the department considers feasible; and

(7) an analysis of the impact of including capital recovery costs in the rates the department charges under Section 2205.040 that, at a minimum, includes the impact of those included costs on customer utilization and the department's schedule for replacing aircraft in the pool.

(d) In developing the long-range plan, the department [board] shall consider at a minimum for each aircraft in the pool:

(1) how much the aircraft is used and the purposes for which the aircraft [it] is used;

(2) the cost of operating the aircraft and the revenue generated by the aircraft; and

(3) the demand for the aircraft or for that type of aircraft.

(e) The department shall update the long-range plan annually and make the plan available on the department's Internet website.

SECTION 7. Section 2205.034, Government Code, is amended to read as follows:

1 Sec. 2205.034. FACILITIES. (a) The department ~~[board]~~ may
2 acquire appropriate facilities for the accommodation of all
3 aircraft owned or leased by the state. The facilities may be
4 purchased or leased as determined by the department ~~[board]~~ to be
5 most economical for the state and as provided by legislative
6 appropriations. The facilities may include adequate hangar space,
7 an indoor passenger waiting area, a flight-planning area,
8 communications facilities, and other related and necessary
9 facilities.

10 (b) A state agency that operates an aircraft may not use a
11 facility in Austin other than a facility operated by the department
12 ~~[board]~~ for the storage, parking, fueling, or maintenance of the
13 aircraft, whether or not the aircraft is based in Austin. In a
14 situation the department ~~[board]~~ determines to be an emergency, the
15 department ~~[board]~~ may authorize a state agency to use a facility in
16 Austin other than a department ~~[board]~~ facility for the storage,
17 parking, fueling, or maintenance of an aircraft.

18 SECTION 8. Section [2205.035](#), Government Code, is amended to
19 read as follows:

20 Sec. 2205.035. AIRCRAFT LEASES. (a) The department
21 ~~[board]~~ by interagency contract may lease state-owned aircraft to a
22 state agency.

23 (b) A state agency that is the prior owner or lessee of an
24 aircraft has the first option to lease that aircraft from the
25 department ~~[board]~~.

26 (c) The lease may provide for operation or maintenance by
27 the department ~~[board]~~ or the state agency.

1 (d) A state agency may not expend appropriated funds for the
2 lease of an aircraft unless the department ~~[board]~~ executes the
3 lease or approves the lease ~~[by board order]~~.

4 (e) A state agency may not use money appropriated by the
5 legislature to rent or lease aircraft except from the department
6 ~~[board]~~ or as provided by Subsection (f). For purposes of this
7 subsection and Subsection (f), payments of mileage reimbursements
8 provided for by the General Appropriations Act are not rentals or
9 leases of aircraft.

10 (f) If the department ~~[board]~~ determines that no
11 state-owned aircraft is available to meet a transportation need
12 that has arisen or that a rental or lease of aircraft would reduce
13 the state's transportation costs, the department ~~[board]~~ shall
14 authorize a state agency to expend funds for the rental or lease of
15 aircraft, which may include a helicopter.

16 SECTION 9. Section [2205.036](#), Government Code, is amended to
17 read as follows:

18 Sec. 2205.036. PASSENGER TRANSPORTATION. (a) The
19 department ~~[board]~~ shall provide aircraft transportation, to the
20 extent that its aircraft are available, to:

21 (1) state officers and employees who are traveling on
22 official business according to the coordinated passenger
23 scheduling system and the priority scheduling system developed as
24 part of the aircraft operations manual under Section [2205.038](#);

25 (2) persons in the care or custody of state officers or
26 employees described by Subdivision (1); and

27 (3) persons whose transportation furthers official

1 state business.

2 (b) The department [~~board~~] may not provide aircraft
3 transportation to a passenger if the passenger is to be transported
4 to or from a place where the passenger:

5 (1) will make or has made a speech not related to
6 official state business;

7 (2) will attend or has attended an event sponsored by a
8 political party;

9 (3) will perform a service or has performed a service
10 for which the passenger is to receive an honorarium, unless the
11 passenger reimburses the department [~~board~~] for the cost of
12 transportation;

13 (4) will attend or has attended an event at which money
14 is raised for private or political purposes; or

15 (5) will attend or has attended an event at which an
16 audience was charged an admission fee to see or hear the passenger.

17 (c) The department [~~board~~] may not provide aircraft
18 transportation to a destination unless:

19 (1) the destination is not served by a commercial
20 carrier;

21 (2) the aircraft transportation is the most
22 cost-effective travel arrangement in accordance with Section
23 660.007(a) [~~time required to use a commercial carrier interferes~~
24 ~~with passenger obligations~~]; [~~or~~]

25 (3) the number of passengers traveling makes the use
26 of a state aircraft cost-effective; or

27 (4) emergency circumstances necessitate the use of a

1 state aircraft.

2 (d) Before the executive director of the department or the
3 director's designee may authorize a person to use a state-operated
4 aircraft, the person must sign an affidavit stating that the person
5 is traveling on official state business. On filing of the
6 affidavit, the person may be authorized to use state-operated
7 aircraft for official state business for a period of one year. A
8 member of the legislature is not required to receive any other
9 additional authorization to use a state-operated aircraft.

10 (e) Before the executive director of the department or the
11 director's designee may authorize an employee of a state agency to
12 use a state-operated aircraft, the administrative head of the state
13 agency must certify that the employee's transportation complies
14 with the requirements of this section.

15 SECTION 10. Section 2205.038, Government Code, is amended
16 to read as follows:

17 Sec. 2205.038. AIRCRAFT OPERATIONS MANUAL. (a) The
18 department ~~[board]~~ shall:

19 (1) prepare a manual that establishes minimum
20 standards for the operation of aircraft by state agencies; and

21 (2) adopt procedures for the distribution of the
22 manual to state agencies.

23 (b) The manual must include provisions for:

24 (1) pilot certification standards, including medical
25 requirements for pilots;

26 (2) recurring training programs for pilots;

27 (3) general operating and flight rules;

1 (4) coordinated passenger scheduling; and

2 (5) other issues the department [~~board~~] determines are
3 necessary to ensure the efficient and safe operation of aircraft by
4 a state agency.

5 (c) The department [~~board~~] shall confer with and solicit the
6 written advice of state agencies the department [~~board~~] determines
7 are principal users of aircraft operated by the department [~~board~~]
8 and, to the extent practicable, incorporate that advice in the
9 development of the manual and subsequent changes to the manual.

10 (d) The department [~~board~~] shall give an officer normally
11 elected by statewide election priority in the scheduling of
12 aircraft. The department [~~board~~] by rule may require a 12-hour
13 notice by the officer to obtain the priority in scheduling.

14 SECTION 11. Section 2205.039, Government Code, is amended
15 to read as follows:

16 Sec. 2205.039. TRAVEL LOG. (a) The Legislative Budget
17 Board, in cooperation with the department [~~board~~], shall prescribe:

18 (1) a travel log form for gathering information about
19 the use of state-operated aircraft;

20 (2) procedures to ensure that individuals who travel
21 as passengers on or operate state-operated aircraft provide in a
22 legible manner the information requested of them by the form; and

23 (3) procedures for each state agency that operates an
24 aircraft for sending the form to the department [~~board~~] and the
25 Legislative Budget Board.

26 (b) The travel log form must request the following
27 information about a state-operated aircraft each time the aircraft

1 is flown:

2 (1) a mission statement, which may appear as a
3 selection to be identified from general categories appearing on the
4 form;

5 (2) the name, state agency represented, destination,
6 and signature of each person who is a passenger or crew member of
7 the aircraft;

8 (3) the date of each flight;

9 (4) a detailed and specific description of the
10 official business purpose of each flight; and

11 (5) other information determined by the Legislative
12 Budget Board and the department [~~board~~] to be necessary to monitor
13 the proper use of the aircraft.

14 (c) A state agency other than the department [~~Texas~~
15 ~~Department of Transportation~~] shall send the agency's travel logs
16 to the department on an annual basis. An agency is not required to
17 file a travel log with the department if the agency did not operate
18 an aircraft during the period covered by the travel log.

19 SECTION 12. Section 2205.040, Government Code, is amended
20 to read as follows:

21 Sec. 2205.040. RATES AND BILLING PROCEDURES; ACCOUNT FOR
22 CAPITAL REPLACEMENT COSTS. (a) Subject to Subsection (b), the
23 department [~~The board~~] shall adopt rates for interagency aircraft
24 services that are sufficient to recover, in the aggregate and to the
25 extent possible, all direct costs for the services provided,
26 including a state agency's pro rata share of major maintenance,
27 overhauls of equipment and facilities, and pilots' salaries.

1 (b) If the department's most recent long-term plan contains
2 an analysis under Section 2205.032(c)(7) that finds that including
3 capital recovery costs in the rates the department charges under
4 this section is a practicable fleet replacement strategy, the
5 department may adopt rates for interagency aircraft services
6 provided by the department that are sufficient to recover, in the
7 aggregate and to the extent possible:

8 (1) all direct costs for services provided, as
9 provided by Subsection (a); and

10 (2) the capital costs of replacing aircraft in the
11 pool.

12 (c) The Legislative Budget Board, in cooperation with the
13 department ~~[board]~~ and the state auditor, shall prescribe a billing
14 procedure for passenger travel on state-operated aircraft.

15 (d) If the department adopts rates under Subsection (b), the
16 portion of the rates collected for the capital costs of replacing
17 aircraft in the pool shall be deposited in a separate account in the
18 state highway fund. Money in the account may be used only for the
19 acquisition of aircraft for the pool operated by the department
20 under Section 2205.032.

21 SECTION 13. Section 2205.041, Government Code, is amended
22 to read as follows:

23 Sec. 2205.041. AIRCRAFT USE FORM. (a) The department
24 ~~[Texas Department of Transportation]~~ shall prescribe:

25 (1) an annual aircraft use form for gathering
26 information about the use of state-operated aircraft, including the
27 extent to which and the methods by which the goal provided by

Section 2205.031(b) is being met; and

(2) procedures for each state agency that operates an aircraft for sending the form to the department.

(b) The aircraft use form must request the following information about each aircraft a state agency operates:

(1) a description of the aircraft;

(2) the date purchased or leased and the purchase price or lease cost;

(3) the number of annual hours flown;

(4) the annual operating costs;

(5) the number of flights and the destinations;

(6) the travel logs prepared under Section 2205.039;

and

(7) any other information the department [~~Texas Department of Transportation~~] requires to document the proper or cost-efficient use of the aircraft.

SECTION 14. Section 2205.042, Government Code, is amended to read as follows:

Sec. 2205.042. PILOTS. An individual who is not a pilot employed by the department [~~board~~] may not operate a state-operated aircraft unless the department [~~board~~] grants the individual a specific exemption from that requirement.

SECTION 15. Section 2205.043(b), Government Code, is amended to read as follows:

(b) The department [~~board~~] shall adopt rules, consistent with federal regulations and Section 3101.001, governing the color, size, and location of marks of identification required by this

1 section.

2 SECTION 16. Section 2205.044, Government Code, is amended
3 to read as follows:

4 Sec. 2205.044. FUEL AND MAINTENANCE CONTRACTS. The
5 department [~~board~~] may contract with a state or federal
6 governmental agency or a political subdivision to provide aircraft
7 fuel or to provide aircraft maintenance services.

8 SECTION 17. Section 2205.045(a), Government Code, is
9 amended to read as follows:

10 (a) The department [~~board~~] may purchase insurance to
11 protect the department [~~board~~] from loss caused by damage, loss,
12 theft, or destruction of aircraft owned or leased by the state and
13 shall purchase liability insurance to protect the officers and
14 employees of each state agency from loss arising from the operation
15 of state-owned aircraft.

16 SECTION 18. Section 2205.046, Government Code, is amended
17 to read as follows:

18 Sec. 2205.046. AIRCRAFT FOR FLIGHT TRAINING PROGRAMS. (a)
19 The department [~~board~~] may transfer aircraft to a public technical
20 institute or other public postsecondary educational institution
21 for use in the institution's flight training program. Except as
22 provided by this section, the department [~~board~~] has no
23 responsibility for continued maintenance of aircraft transferred
24 under this section.

25 (b) As a condition to the transfer of the aircraft, the
26 institution must certify in writing to the department [~~board~~] that
27 the institution will accept full responsibility for maintenance of

1 the aircraft and that it will be properly maintained while in the
2 custody and control of the institution. The department [~~board~~] is
3 entitled to inspect the aircraft without notice for the purpose of
4 ensuring [~~insuring~~] that the aircraft is [~~are~~] properly maintained.

5 (c) The department [~~board~~] may immediately reassume custody
6 and control of a transferred aircraft on a finding by the department
7 [~~board~~] that:

8 (1) the aircraft is not being properly maintained;

9 (2) the aircraft is being used for a purpose other than
10 flight training; or

11 (3) the institution has discontinued its flight
12 training program.

13 SECTION 19. Section 2205.047, Government Code, is amended
14 to read as follows:

15 Sec. 2205.047. INFORMATION POSTED ON THE INTERNET. The
16 department [~~board~~] shall post information related to travel and
17 other services provided by the department [~~board~~] on an Internet
18 website [~~site~~] maintained by or for the department [~~board~~]. The
19 site must be generally accessible to state agencies, persons who
20 use the department's [~~board's~~] services, and, to the extent
21 appropriate, the general public.

22 SECTION 20. Section 21.069(a), Transportation Code, is
23 amended to read as follows:

24 (a) The department [~~in consultation with the State~~
25 ~~Aircraft Pooling Board~~] shall establish a state airport in Central
26 Texas that is open to the general public.

27 SECTION 21. Sections 2205.003, 2205.004, 2205.005,

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1 2205.006, 2205.007, 2205.008, 2205.009, 2205.010, 2205.011,
2 2205.013, 2205.014, 2205.015, and 2205.017, Government Code, are
3 repealed.

4 SECTION 22. Not later than September 1, 2018, the Texas
5 Department of Transportation shall adopt the first long-range plan
6 containing the information required by Section 2205.032(c),
7 Government Code, as amended by this Act.

8 SECTION 23. This Act takes effect September 1, 2017.