

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

SENATE ENROLLED ACT No. 306

AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 8-22-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) The board may adopt and use a seal. Applications, assurances, contracts, and other instruments necessary in the board's performance of its duties and the exercise of its powers may be executed in its name or in the name of the eligible entity, as the case may be, by the president or vice president of the board and attested by its secretary or assistant secretary. However, the board may by resolution prescribe another method of execution.

(b) The board, on behalf of the eligible entity, exclusively has the following powers:

- (1) To acquire, establish, construct, improve, equip, maintain, control, lease, and regulate municipal airports and landing fields and other air navigation facilities, for the use of airplanes and other aircraft, either inside or outside the corporate limits of the entity, subject to statutory limitations; to acquire by lease (with or without the option to purchase) airports, landing fields, air navigation facilities, and any other structures, equipment, and related improvements; and to erect, install, construct and maintain at those airports facilities for the servicing of aircraft and for the

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comfort and accommodation of air travelers and the public; and the fiscal body of the entity may by ordinance provide that any land suitable for these purposes that is owned by the entity shall be put under the control of the board of aviation commissioners for aviation and public purposes. However, if at the time of the creation, appointment, and qualification of the board in an entity, the entity owns or controls an airport, landing field, or other air navigation facilities, then the exclusive control, management, and authority over the airport, landing field, or other air navigation facilities shall at once be transferred to the board without the adoption of an ordinance; and the department, board, officer, or officers of the entity, or other persons having possession or control, shall at once turn over and deliver to the board all personal property, records, books, plans, maps, and other papers and documents relating to the aviation business of the entity. The unexpended balance of any fund or funds appropriated by the entity for aviation purposes becomes a part of the aviation fund of the department of aviation. Before land may be purchased by an entity for the establishment of an airport or landing field or an airport or landing field may be established by an entity the action or acquisition of land must be granted by the aeronautics commission of Indiana.

(2) To elect a secretary from its membership or to employ a secretary, and to employ superintendents, managers, engineers, surveyors, attorneys, clerks, guards, mechanics, laborers, and all employees the board considers expedient, and to prescribe and assign their respective duties and authorities and to fix and regulate their compensation, in accordance with the appropriations made by the fiscal body of the entity. All employees shall be selected irrespective of their political affiliations.

(3) To make rules and regulations, consistent with law, for the management and control of its airports, landing fields, air navigation facilities, and other property under its control. The board may require a special detail of police or hire guards to execute the orders and enforce the rules and regulations.

(4) To acquire by lease the use of an airport or landing field for aircraft pending the acquisition and improvement of an airport or landing field. However, a lease must be approved by ordinance or resolution of the fiscal body of the entity before it takes effect.

(5) To manage and operate all airports, landing fields, and other air navigation facilities acquired or maintained by the entity; and

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to lease all or part of an airport, landing field, or any buildings or other structures to fix, charge, and collect rentals, tolls, fees, and charges to be paid for the use of the whole or a part of the airports, landing fields, or other air navigation facilities by aircraft landing there and for the servicing of the aircraft; to construct public recreational facilities that will not interfere with air operational facilities; to fix, charge, and collect fees for public admissions and privileges; to make contracts for the operation and management of the airports, landing fields, and other air navigation facilities; and to provide for the use, management, and operation of the air navigation facilities through lessees, through its own employees, or otherwise. Contracts or leases for the maintenance, operation, or use of the airport or any part of it may be made for a term not exceeding ~~ten (10)~~ **fifteen (15)** years, and may be extended for similar terms of years, except that any parcels of the land of the airport may be leased for any use connected with the operation and convenience of the airport for an initial term not exceeding ~~twenty (20)~~ **forty (40)** years, and may be extended for a period not to exceed ten (10) years. If a person whose character, experience, and financial responsibility has been determined satisfactory by the board offers to erect a permanent structure that facilitates and is consistent with the operation, use, and purpose of the airport, on land belonging to the airport. A lease may be entered into for a period not to exceed ninety-nine (99) years. However, the fiscal body must pass an ordinance authorizing the board to enter into such a lease. The board may not grant an exclusive right for the use of a landing area under its jurisdiction. However, this does not prevent the making of leases in accordance with other provisions of this chapter. All contracts and leases are subject to restrictions and conditions that the board prescribes.

(6) To sell machinery, equipment, or material under the control of the board belonging to the eligible entity that is not required for aviation purposes. The proceeds shall be deposited with the entity's treasurer or controller to the credit of the department of aviation.

(7) To negotiate and execute contracts of sale or purchase, lease, personal services, materials, supplies, equipment, or any other transaction or business relative to an airport under the board's control. However, whenever the board determines to sell part or all of aviation lands or improvements owned by the eligible entity, the sale must be in accordance with section 8 of this chapter.

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(8) To vacate all or parts of roads, highways, streets, or alleys in land under control of the board in the manner provided by statute.

(9) To approve, together with the fiscal body of the entity, any state, county, city, or other highway, road, street, or other public way, railroad, power line, or other right of way that may be laid out or opened across an airport or in such proximity as to affect the safe operation of the airport.

(10) To construct drainage and sanitary sewers with connections and outlets as are necessary for the proper drainage and maintenance of an airport or landing field acquired or maintained under this chapter, including the necessary buildings and improvements and for the public use of them, in the same manner that the eligible entity may construct sewers and drains. However, with respect to the construction of drains and sanitary sewers beyond the boundaries of the airport or landing field, the board shall proceed in the same manner as private owners of property and may institute proceedings and negotiate with the departments, bodies, and officers of the entity to secure the proper orders and approvals.

(11) To order a public utility or public service corporation or other person to remove or to install in underground conduits, wires, cables, and power lines passing through or over the airport or landing field or along the borders or within a reasonable distance that may be determined to be necessary for the safety of operations of the airport or landing field, upon payment to the utility or other person due compensation for the expense of the removal or reinstallation. The board must consent to any franchise granted by state or local authorities for the construction or maintenance of any railway, telephone, telegraph, electric power, pipe, or conduit line upon, over, or through land under the control of the board or within a reasonable distance of land that is necessary for the safety of operation. The board must also consent to the installation of overhead electric power lines carrying a voltage of over forty-four hundred (4,400) volts and having poles, standards, or supports over thirty (30) feet in height within one-half (1/2) mile of a landing area acquired or maintained under this chapter.

(12) To contract with any other state agency or instrumentality or any political subdivision for the rendition of services, the rental or use of equipment or facilities, or the joint purchase and use of equipment or facilities that are necessary for the operation, maintenance, or construction of an airport operated under this

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chapter.

SECTION 2. IC 8-22-3-11 (CURRENT VERSION) IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. The board may do all acts necessary or reasonably incident to carrying out the purposes of this chapter, including the following:

- (1) As a municipal corporation, to sue and be sued in its own name.
- (2) To have all the powers and duties conferred by statute upon boards of aviation commissioners. The board supersedes all boards of aviation commissioners within the district. The board has exclusive jurisdiction within the district.
- (3) To protect all property owned or managed by the board.
- (4) To adopt an annual budget and levy taxes in accordance with this chapter.
 - (A) The board may not levy taxes on property in excess of the following rate schedule, except as provided in sections 17 and 25 of this chapter:

| Total Assessed Property Valuation | Rate Per \$100 Of Assessed Valuation |
|--|---|
| \$100 million or less | \$0.30 |
| More than \$100 million but not more than \$150 million | \$0.25 |
| More than \$150 million but not more than \$200 million | \$0.20 |
| More than \$200 million but not more than \$300 million | \$0.15 |
| More than \$300 million | \$0.10 |

- (B) Clause (A) does not apply to an authority that was established under IC 19-6-2 or IC 19-6-3 (before their repeal on April 1, 1980).
- (C) The board of an authority that was established under IC 19-6-3 (before its repeal on April 1, 1980) may levy taxes on property not in excess of twenty cents (\$0.20) on each one hundred dollars (\$100) of assessed valuation.
- (5) To incur indebtedness in the name of the authority in accordance with this chapter.
- (6) To adopt administrative procedures, rules, and regulations.
- (7) To acquire property, real, personal, or mixed, by deed, purchase, lease, condemnation, or otherwise and dispose of it for use or in connection with or for administrative purposes of the

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airport; to receive gifts, donations, bequests, and public trusts and to agree to conditions and terms accompanying them and to bind the authority to carry them out; to receive and administer federal or state aid; and to erect buildings or structures that may be needed to administer and carry out this chapter.

(8) To determine matters of policy regarding internal organization and operating procedures not specifically provided for otherwise.

(9) To adopt a schedule of reasonable charges and to collect them from all users of facilities and services within the district.

(10) To purchase supplies, materials, and equipment to carry out the duties and functions of the board in accordance with procedures adopted by the board.

(11) To employ personnel that are necessary to carry out the duties, functions, and powers of the board.

(12) To establish an employee pension plan. The board may, upon due investigation, authorize and begin a fair and reasonable pension or retirement plan and program for personnel, the cost to be borne by either the authority or by the employee or by both, as the board determines. If the authority was established under IC 19-6-2 (before its repeal on April 1, 1980), the entire cost must be borne by the authority, and ordinances creating the plan or making changes in it must be approved by the mayor of the city. The plan may be administered and funded by a trust fund or by insurance purchased from an insurance company licensed to do business in Indiana or by a combination of them. The board may also include in the plan provisions for life insurance, disability insurance, or both.

(13) To sell surplus real or personal property in accordance with law.

(14) To adopt and use a seal.

(15) To acquire, establish, construct, improve, equip, maintain, control, lease, and regulate municipal airports, landing fields, and other air navigation facilities, either inside or outside the district; to acquire by lease (with or without the option to purchase) airports, landing fields, or navigation facilities, and any structures, equipment, or related improvements; and to erect, install, construct, and maintain at the airport or airports facilities for the servicing of aircraft and for the comfort and accommodation of air travelers and the public. The Indiana department of transportation must grant its approval before land may be purchased for the establishment of an airport or landing field and before an airport or landing field may be established.

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(16) To fix and determine exclusively the uses to which the airport lands may be put. All uses must be necessary or desirable to the airport or the aviation industry and must be compatible with the uses of the surrounding lands as far as practicable.

(17) To elect a secretary from its membership, or to employ a secretary, an airport director, superintendents, managers, a treasurer, engineers, surveyors, attorneys, clerks, guards, mechanics, laborers, and all employees the board considers expedient, and to prescribe and assign their respective duties and authorities and to fix and regulate the compensation to be paid to the persons employed by it in accordance with the authority's appropriations. All employees shall be selected irrespective of their political affiliations.

(18) To make all rules and regulations, consistent with laws regarding air commerce, for the management and control of its airports, landing fields, air navigation facilities, and other property under its control.

(19) To acquire by lease the use of an airport or landing field for aircraft pending the acquisition and improvement of an airport or landing field.

(20) To manage and operate airports, landing fields, and other air navigation facilities acquired or maintained by an authority; to lease all or part of an airport, landing field, or any buildings or other structures, and to fix, charge, and collect rentals, tolls, fees, and charges to be paid for the use of the whole or a part of the airports, landing fields, or other air navigation facilities by aircraft landing there and for the servicing of the aircraft; to construct public recreational facilities that will not interfere with air operational facilities; to fix, charge, and collect fees for public admissions and privileges; and to make contracts for the operation and management of the airports, landing fields, and other air navigation facilities; and to provide for the use, management, and operation of the air navigation facilities through lessees, its own employees, or otherwise. Contracts or leases for the maintenance, operation, or use of the airport or any part of it may be made for a term not exceeding ~~ten (10)~~ **fifteen (15)** years and may be extended for similar terms of years, except that any parcels of the land of the airport may be leased for any use connected with the operation and convenience of the airport for an initial term not exceeding ~~twenty (20)~~ **forty (40)** years and may be extended for a period not to exceed ten (10) years. If a person whose character, experience, and financial responsibility has been determined

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satisfactory by the board offers to erect a permanent structure that facilitates and is consistent with the operation, use, and purpose of the airport on land belonging to the airport, a lease may be entered into for a period not to exceed ninety-nine (99) years. However, the board must pass an ordinance to enter into such a lease. The board may not grant an exclusive right for the use of a landing area under its jurisdiction. However, this does not prevent the making of leases in accordance with other provisions of this chapter. All contracts and leases are subject to restrictions and conditions that the board prescribes. The authority may lease its property and facilities for any commercial or industrial use it considers necessary and proper, including the use of providing airport motel facilities.

(21) To sell machinery, equipment, or material that is not required for aviation purposes. The proceeds shall be deposited with the treasurer of the authority.

(22) To negotiate and execute contracts for sale or purchase, lease, personal services, materials, supplies, equipment, or any other transaction or business relative to an airport under the board's control and operation. However, whenever the board determines to sell part or all of aviation lands, buildings, or improvements owned by the authority, the sale must be in accordance with law.

(23) To vacate all or parts of roads, highways, streets, or alleys, whether inside or outside the district, in the manner provided by statute.

(24) To annex lands to itself if the lands are owned by the authority or are streets, roads, or other public ways.

(25) To approve any state, county, city, or other highway, road, street or other public way, railroad, power line, or other right-of-way to be laid out or opened across an airport or in such proximity as to affect the safe operation of the airport.

(26) To construct drainage and sanitary sewers with connections and outlets as are necessary for the proper drainage and maintenance of an airport or landing field acquired or maintained under this chapter, including the necessary buildings and improvements and for the public use of them in the same manner that the authority may construct sewers and drains. However, with respect to the construction of drains and sanitary sewers beyond the boundaries of the airport or landing field, the board shall proceed in the same manner as private owners of property and may institute proceedings and negotiate with the departments,



bodies, and officers of an eligible entity to secure the proper orders and approvals; and to order a public utility or public service corporation or other person to remove or to install in underground conduits wires, cables, and power lines passing through or over the airport or landing field or along the borders or within a reasonable distance that may be determined to be necessary for the safety of operations, upon payment to the utility or other person of due compensation for the expense of the removal or reinstallation. The board must consent before any franchise may be granted by state or local authorities for the construction of or maintenance of railway, telephone, telegraph, electric power, pipe, or conduit line upon, over, or through land under the control of the board or within a reasonable distance of land that is necessary for the safety of operation. The board must also consent before overhead electric power lines carrying a voltage of more than four thousand four hundred (4,400) volts and having poles, standards, or supports over thirty (30) feet in height within one-half (1/2) mile of a landing area acquired or maintained under this chapter may be installed.

(27) To contract with any other state agency or instrumentality or any political subdivision for the rendition of services, the rental or use of equipment or facilities, or the joint purchase and use of equipment or facilities that are necessary for the operation, maintenance, or construction of an airport operated under this chapter.

(28) To provide air transportation in furtherance of the duties and responsibilities of the board.

(29) To promote or encourage aviation-related trade or commerce at the airports that it operates.

SECTION 3. IC 8-22-3-11 (DELAYED VERSION) IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2001]: Sec. 11. The board may do all acts necessary or reasonably incident to carrying out the purposes of this chapter, including the following:

- (1) As a municipal corporation, to sue and be sued in its own name.
- (2) To have all the powers and duties conferred by statute upon boards of aviation commissioners. The board supersedes all boards of aviation commissioners within the district. The board has exclusive jurisdiction within the district.
- (3) To protect all property owned or managed by the board.
- (4) To adopt an annual budget and levy taxes in accordance with this chapter.

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(A) The board may not levy taxes on property in excess of the following rate schedule, except as provided in sections 17 and 25 of this chapter:

| Total Assessed Property Valuation | Rate Per \$100 Of Assessed Valuation |
|--|---|
| \$300 million or less | \$0.10 |
| More than \$300 million but not more than \$450 million | \$0.0833 |
| More than \$450 million but not more than \$600 million | \$0.0667 |
| More than \$600 million but not more than \$900 million | \$0.05 |
| More than \$900 million | \$0.0333 |

(B) Clause (A) does not apply to an authority that was established under IC 19-6-2 or IC 19-6-3 (before their repeal on April 1, 1980).

(C) The board of an authority that was established under IC 19-6-3 (before its repeal on April 1, 1980) may levy taxes on property not in excess of six and sixty-seven hundredths cents (\$0.0667) on each one hundred dollars (\$100) of assessed valuation.

(5) To incur indebtedness in the name of the authority in accordance with this chapter.

(6) To adopt administrative procedures, rules, and regulations.

(7) To acquire property, real, personal, or mixed, by deed, purchase, lease, condemnation, or otherwise and dispose of it for use or in connection with or for administrative purposes of the airport; to receive gifts, donations, bequests, and public trusts and to agree to conditions and terms accompanying them and to bind the authority to carry them out; to receive and administer federal or state aid; and to erect buildings or structures that may be needed to administer and carry out this chapter.

(8) To determine matters of policy regarding internal organization and operating procedures not specifically provided for otherwise.

(9) To adopt a schedule of reasonable charges and to collect them from all users of facilities and services within the district.

(10) To purchase supplies, materials, and equipment to carry out the duties and functions of the board in accordance with procedures adopted by the board.

(11) To employ personnel that are necessary to carry out the

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duties, functions, and powers of the board.

(12) To establish an employee pension plan. The board may, upon due investigation, authorize and begin a fair and reasonable pension or retirement plan and program for personnel, the cost to be borne by either the authority or by the employee or by both, as the board determines. If the authority was established under IC 19-6-2 (before its repeal on April 1, 1980), the entire cost must be borne by the authority, and ordinances creating the plan or making changes in it must be approved by the mayor of the city. The plan may be administered and funded by a trust fund or by insurance purchased from an insurance company licensed to do business in Indiana or by a combination of them. The board may also include in the plan provisions for life insurance, disability insurance, or both.

(13) To sell surplus real or personal property in accordance with law.

(14) To adopt and use a seal.

(15) To acquire, establish, construct, improve, equip, maintain, control, lease, and regulate municipal airports, landing fields, and other air navigation facilities, either inside or outside the district; to acquire by lease (with or without the option to purchase) airports, landing fields, or navigation facilities, and any structures, equipment, or related improvements; and to erect, install, construct, and maintain at the airport or airports facilities for the servicing of aircraft and for the comfort and accommodation of air travelers and the public. The Indiana department of transportation must grant its approval before land may be purchased for the establishment of an airport or landing field and before an airport or landing field may be established.

(16) To fix and determine exclusively the uses to which the airport lands may be put. All uses must be necessary or desirable to the airport or the aviation industry and must be compatible with the uses of the surrounding lands as far as practicable.

(17) To elect a secretary from its membership, or to employ a secretary, an airport director, superintendents, managers, a treasurer, engineers, surveyors, attorneys, clerks, guards, mechanics, laborers, and all employees the board considers expedient, and to prescribe and assign their respective duties and authorities and to fix and regulate the compensation to be paid to the persons employed by it in accordance with the authority's appropriations. All employees shall be selected irrespective of their political affiliations.

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(18) To make all rules and regulations, consistent with laws regarding air commerce, for the management and control of its airports, landing fields, air navigation facilities, and other property under its control.

(19) To acquire by lease the use of an airport or landing field for aircraft pending the acquisition and improvement of an airport or landing field.

(20) To manage and operate airports, landing fields, and other air navigation facilities acquired or maintained by an authority; to lease all or part of an airport, landing field, or any buildings or other structures, and to fix, charge, and collect rentals, tolls, fees, and charges to be paid for the use of the whole or a part of the airports, landing fields, or other air navigation facilities by aircraft landing there and for the servicing of the aircraft; to construct public recreational facilities that will not interfere with air operational facilities; to fix, charge, and collect fees for public admissions and privileges; and to make contracts for the operation and management of the airports, landing fields, and other air navigation facilities; and to provide for the use, management, and operation of the air navigation facilities through lessees, its own employees, or otherwise. Contracts or leases for the maintenance, operation, or use of the airport or any part of it may be made for a term not exceeding ~~ten (10)~~ **fifteen (15)** years and may be extended for similar terms of years, except that any parcels of the land of the airport may be leased for any use connected with the operation and convenience of the airport for an initial term not exceeding ~~twenty (20)~~ **forty (40)** years and may be extended for a period not to exceed ten (10) years. If a person whose character, experience, and financial responsibility has been determined satisfactory by the board offers to erect a permanent structure that facilitates and is consistent with the operation, use, and purpose of the airport on land belonging to the airport, a lease may be entered into for a period not to exceed ninety-nine (99) years. However, the board must pass an ordinance to enter into such a lease. The board may not grant an exclusive right for the use of a landing area under its jurisdiction. However, this does not prevent the making of leases in accordance with other provisions of this chapter. All contracts and leases are subject to restrictions and conditions that the board prescribes. The authority may lease its property and facilities for any commercial or industrial use it considers necessary and proper, including the use of providing airport motel facilities.

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(21) To sell machinery, equipment, or material that is not required for aviation purposes. The proceeds shall be deposited with the treasurer of the authority.

(22) To negotiate and execute contracts for sale or purchase, lease, personal services, materials, supplies, equipment, or any other transaction or business relative to an airport under the board's control and operation. However, whenever the board determines to sell part or all of aviation lands, buildings, or improvements owned by the authority, the sale must be in accordance with law.

(23) To vacate all or parts of roads, highways, streets, or alleys, whether inside or outside the district, in the manner provided by statute.

(24) To annex lands to itself if the lands are owned by the authority or are streets, roads, or other public ways.

(25) To approve any state, county, city, or other highway, road, street or other public way, railroad, power line, or other right-of-way to be laid out or opened across an airport or in such proximity as to affect the safe operation of the airport.

(26) To construct drainage and sanitary sewers with connections and outlets as are necessary for the proper drainage and maintenance of an airport or landing field acquired or maintained under this chapter, including the necessary buildings and improvements and for the public use of them in the same manner that the authority may construct sewers and drains. However, with respect to the construction of drains and sanitary sewers beyond the boundaries of the airport or landing field, the board shall proceed in the same manner as private owners of property and may institute proceedings and negotiate with the departments, bodies, and officers of an eligible entity to secure the proper orders and approvals; and to order a public utility or public service corporation or other person to remove or to install in underground conduits wires, cables, and power lines passing through or over the airport or landing field or along the borders or within a reasonable distance that may be determined to be necessary for the safety of operations, upon payment to the utility or other person of due compensation for the expense of the removal or reinstallation. The board must consent before any franchise may be granted by state or local authorities for the construction of or maintenance of railway, telephone, telegraph, electric power, pipe, or conduit line upon, over, or through land under the control of the board or within a reasonable distance of

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land that is necessary for the safety of operation. The board must also consent before overhead electric power lines carrying a voltage of more than four thousand four hundred (4,400) volts and having poles, standards, or supports over thirty (30) feet in height within one-half (1/2) mile of a landing area acquired or maintained under this chapter may be installed.

(27) To contract with any other state agency or instrumentality or any political subdivision for the rendition of services, the rental or use of equipment or facilities, or the joint purchase and use of equipment or facilities that are necessary for the operation, maintenance, or construction of an airport operated under this chapter.

(28) To provide air transportation in furtherance of the duties and responsibilities of the board.

(29) To promote or encourage aviation-related trade or commerce at the airports that it operates.

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