

By: Gutierrez

S.B. No. 618

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Texas Telecommunications
Infrastructure Board.

Section 1. Subtitle C, Utilities Code, is amended by
addition new Chapter 67 to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 67.001. DEFINITIONS. In this chapter:

(1) "Board" means the Texas Telecommunications
Infrastructure Development Board.

(2) "Executive administrator" means the executive
administrator of the board.

(3) "Commission" means the Public Utilities
Commission.

Sec. 67.002. SCOPE OF CHAPTER. The powers and duties
enumerated in this chapter are the general powers and duties of the
board and those incidental to the conduct of its business. The
board has other specific powers and duties as prescribed in other
sections of this code and other laws of this state.

SUBCHAPTER B. ORGANIZATION OF THE TEXAS TELECOMMUNICATIONS

INFRASTRUCTURE DEVELOPMENT BOARD

Sec. 67.011. BOARD AS AGENCY OF STATE. The board is the
state agency primarily responsible for telecommunications
infrastructure planning and for administering telecommunications
infrastructure financing for the state.

1 board is composed of three members who are appointed by the governor
2 with the advice and consent of the senate. One member must have
3 experience in the field of engineering, one member must have
4 experience in the field of public or private finance, and one member
5 must have experience in the field of law or business.

6 (b) The governor shall make the appointments in such a
7 manner that the members reflect the diverse geographic regions and
8 population groups of this state and do not have any conflicts of
9 interest prohibited by state or federal law.

10 (c) Appointments to the board shall be made without regard
11 to the race, color, disability, sex, religion, age, or national
12 origin of the appointees.

13 Sec. 67.053. ELIGIBILITY FOR MEMBERSHIP. (a) Members of
14 the board must be members of the general public.

15 (b) A person is not eligible for appointment to the board if
16 the person or the person's spouse:

17 (1) is employed by or participates in the management
18 of a business entity or other organization regulated by the board or
19 receiving funds from the board;

20 (2) owns, controls, or has, directly or indirectly,
21 more than a 10 percent interest in a business entity or other
22 organization regulated by the board or receiving funds from the
23 board; or

24 (3) uses or receives a substantial amount of tangible
25 goods, services, or funds from the board.

26 (c) Subsection (b)(1) does not apply to an employee of a
27 political subdivision of this state.

1 (d) A person is not eligible for appointment to the board if
2 the person served on the board on or before January 1, 2013.

3 Sec. 67.054. REMOVAL OF BOARD MEMBERS. (a) It is a ground
4 for removal from the board that a member:

5 (1) does not have at the time of taking office the
6 qualifications required for appointment to the board;

7 (2) does not maintain during service on the board the
8 qualifications required for appointment to the board;

9 (3) is ineligible for membership under Sections
10 67.053, 67.057, and 67.058;

11 (4) cannot, because of illness or disability,
12 discharge the member's duties for a substantial part of the member's
13 term; or

14 (5) is absent from more than half of the regularly
15 scheduled board meetings that the member is eligible to attend
16 during a calendar year without an excuse approved by a majority vote
17 of the board.

18 (b) The validity of an action of the board is not affected by
19 the fact that it is taken when a ground for removal of a board member
20 exists.

21 (c) If the executive administrator or a member has knowledge
22 that a potential ground for removal exists, the executive
23 administrator shall notify the chairman of the board of the
24 potential ground. The chairman of the board shall then notify the
25 governor and the attorney general that a potential ground for
26 removal exists. If the potential ground for removal includes the
27 chairman of the board, the executive administrator or another

1 member of the board shall notify the member of the board with the
2 most seniority, who shall then notify the governor and the attorney
3 general that a potential ground for removal exists.

4 (d) The governor, with the advice and consent of the senate,
5 may remove a board member from office as provided by Section 9,
6 Article XV, Texas Constitution.

7 Sec. 67.055. OFFICERS OF STATE; OATH. Each member of the
8 board is an officer of the state as that term is used in the
9 constitution, and each member shall qualify by taking the official
10 oath of office.

11 Sec. 67.0567. TERMS OF OFFICE. (a) The members of the board
12 hold office for staggered terms of six years, with the term of one
13 member expiring February 1 of each odd-numbered year. Each member
14 holds office until a successor is appointed and has qualified.

15 (b) A person appointed to the board may not serve for more
16 than two six-year terms.

17 Sec. 67.057. CONFLICT OF INTEREST. (a) In this section,
18 "Texas trade association" means a cooperative and voluntarily
19 joined association of business or professional competitors in this
20 state designed to assist its members and its industry or profession
21 in dealing with mutual business or professional problems and in
22 promoting their common interest.

23 (b) A person may not be a member of the board and may not be a
24 board employee employed in a "bona fide executive, administrative,
25 or professional capacity," as that phrase is used for purposes of
26 establishing an exemption to the overtime provisions of the federal
27 Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.),

1 and its subsequent amendments, if:

2 (1) the person is an officer, employee, or paid
3 consultant of a Texas trade association in the field of
4 telecommunications infrastructure planning or telecommunications
5 infrastructure financing; or

6 (2) the person's spouse is an officer, employee, or
7 paid consultant of a Texas trade association in the field of
8 telecommunications infrastructure planning or telecommunications
9 infrastructure financing.

10 Sec. 67.058. LOBBYIST PROHIBITION. A person may not be a
11 member of the board or act as the general counsel to the board if the
12 person is required to register as a lobbyist under Chapter 305,
13 Government Code, because of the person's activities for
14 compensation on behalf of a profession related to the operation of
15 the board.

16 Sec. 67.059. CHAIRMAN OF THE BOARD. The governor shall
17 designate one member as chairman of the board to serve at the will
18 of the governor.

19 Sec. 67.0670. BOARD MEETINGS. (a) The board shall hold
20 regular meetings and all hearings at times specified by a board
21 order and entered in its minutes. The board may hold special
22 meetings at the times and places in this state that the board
23 decides are appropriate for the performance of its duties. The
24 chairman of the board or the board member acting for the chairman
25 shall give the other members reasonable notice before holding a
26 special meeting.

27 (b) The chairman shall preside at all meetings of the board.

1 The chairman may designate another board member to act for the
2 chairman in the chairman's absence.

3 (c) A majority of the members constitute a quorum to
4 transact business.

5 Sec. 67.06701. CONSULTATION REGARDING CERTAIN FINANCIAL
6 MATTERS; CLOSED MEETING. (a) The board may hold a closed meeting
7 to consider and discuss financial matters related to the investment
8 or potential investment of the board's funds.

9 (b) A final action, decision, or vote on a matter considered
10 or discussed in a closed meeting held under this section must be
11 made in an open meeting conducted in compliance with the notice
12 provisions of Chapter 551, Government Code.

13 Sec. 67.0671. FULL-TIME SERVICE. Each member of the board
14 shall serve on a full-time basis.

15 Sec. 67.0672. REQUIRED TRAINING FOR BOARD MEMBERS. (a) A
16 person who is appointed to and qualifies for office as a member of
17 the board may not vote, deliberate, or be counted as a member in
18 attendance at a meeting of the board until the person completes a
19 training program that complies with this section.

20 (b) The training program must provide the person with
21 information regarding:

22 (1) the legislation that created the board;

23 (2) the programs operated by the board;

24 (3) the role and functions of the board;

25 (4) the rules of the board, with an emphasis on the
26 rules that relate to disciplinary and investigatory authority;

27 (5) the current budget for the board;

1 (67) the results of the most recent formal audit of the
2 board;

3 (7) the requirements of:

4 (A) the open meetings law, Chapter 551,
5 Government Code;

6 (B) the public information law, Chapter 552,
7 Government Code;

8 (C) the administrative procedure law, Chapter
9 2001, Government Code; and

10 (D) other laws relating to public officials,
11 including conflict of interest laws; and

12 (8) any applicable ethics policies adopted by the
13 board or the Texas Ethics Commission.

14 (c) A person appointed to the board is entitled to
15 reimbursement, as provided by the General Appropriations Act, for
16 the travel expenses incurred in attending the training program
17 regardless of whether the attendance at the program occurs before
18 or after the person qualifies for office.

19 SUBCHAPTER D. GENERAL POWERS AND DUTIES OF THE BOARD

20 Sec. 67.101. RULES. (a) The board shall adopt rules
21 necessary to carry out the powers and duties of the board provided
22 by this code and other laws of this state.

23 (b) The executive administrator may recommend to the board
24 for its consideration rules that he considers necessary to carry
25 out the board's powers and duties.

26 (c) Rules shall be adopted in the manner provided by Chapter
27 2001, Government Code.

1 Sec. 67.1011. BUDGET APPROVAL. The board shall examine and
2 approve budget recommendations for the board that are to be
3 transmitted to the legislature.

4 Sec. 67.102. ADVISORY COUNCILS. The board may create and
5 consult with any advisory councils that the board considers
6 appropriate to carry out its powers and duties. The board shall
7 create an advisory on issues surrounding rural broadband service.

8 Sec. 67.103. EXECUTIVE ADMINISTRATOR. The board shall
9 appoint a person to be the executive administrator to serve at the
10 will of the board.

11 Sec. 67.104. MEMORANDA OF UNDERSTANDING. The board may
12 enter into a memorandum of understanding with any other state
13 agency and shall adopt by rule any memorandum of understanding
14 between the board and any other state agency.

15 Sec. 67.105. PUBLIC TESTIMONY POLICY. The board shall
16 develop and implement policies that will provide the public with a
17 reasonable opportunity to appear before the board and to speak on
18 any issue under the jurisdiction of the board.

19 Sec. 67.1067. STANDARDS OF CONDUCT. The executive
20 administrator or the executive administrator's designee shall
21 provide to members of the board and to agency employees, as often as
22 is necessary, information regarding the requirements for office or
23 employment under this code, including information regarding a
24 person's responsibilities under applicable laws relating to
25 standards of conduct for state officers or employees.

26 Sec. 67.108. POWER TO PURCHASE INSURANCE. The board may
27 purchase for its members, appointees, and employees and pay

1 premiums on liability insurance in any amounts and from any
2 insurers the board considers advisable.

3 Sec. 67.109. LIABILITY. Pursuant to the limited waiver of
4 governmental immunity of Chapter 101, Civil Practice and Remedies
5 Code (Texas Tort Claims Act), neither a member of the board nor any
6 employee of the board is personally liable in the person's private
7 capacity for any act performed or for any contract or other
8 obligation entered into or undertaken in an official capacity in
9 good faith and without intent to defraud, in connection with the
10 administration, management, or conduct of the board in its
11 business, programs, or other related affairs.

12 Sec. 67.111. SEPARATION OF RESPONSIBILITIES. The board
13 shall develop and implement policies that clearly separate the
14 policy-making responsibilities of the board and the management
15 responsibilities of the executive administrator and the staff of
16 the board.

17 Sec. 67.113. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE
18 RESOLUTION. (a) The board shall develop and implement a policy to
19 encourage the use of:

20 (1) negotiated rulemaking procedures under Chapter
21 2008, Government Code, for the adoption of board rules; and

22 (2) appropriate alternative dispute resolution
23 procedures under Chapter 2009, Government Code, to assist in the
24 resolution of internal and external disputes under the board's
25 jurisdiction.

26 (b) The board's procedures relating to alternative dispute
27 resolution must conform, to the extent possible, to any model

1 guidelines issued by the State Office of Administrative Hearings
2 for the use of alternative dispute resolution by state agencies.

3 (c) The board shall:

4 (1) coordinate the implementation of the policy
5 adopted under Subsection (a);

6 (2) provide training as needed to implement the
7 procedures for negotiated rulemaking or alternative dispute
8 resolution; and

9 (3) collect data concerning the effectiveness of those
10 procedures.

11 Sec. 67.114. FINANCIAL ASSISTANCE PROGRAMS: DEFAULT,
12 REMEDIES, AND ENFORCEMENT. (a) In this section:

13 (1) "Default" means:

14 (A) default in payment of the principal of or
15 interest on bonds, securities, or other obligations purchased or
16 acquired by the board;

17 (B) failure to perform any covenant related to a
18 bond, security, or other obligation purchased or acquired by the
19 board;

20 (C) a failure to perform any of the terms of a
21 loan, grant, or other financing agreement; or

22 (D) any other failure to perform an obligation,
23 breach of a term of an agreement, or default as provided by any
24 proceeding or agreement evidencing an obligation or agreement of a
25 recipient, beneficiary, or guarantor of financial assistance
26 provided by the board.

27 (2) "Financial assistance program recipient" means a

1 recipient or beneficiary of funds administered by the board under
2 this code, including a borrower, grantee, guarantor, or other
3 beneficiary.

4 (b) In the event of a default and on request by the board,
5 the attorney general shall seek:

6 (1) a writ of mandamus to compel a financial
7 assistance program recipient or the financial assistance program
8 recipient's officers, agents, and employees to cure the default;
9 and

10 (2) any other legal or equitable remedy the board and
11 the attorney general consider necessary and appropriate.

12 (c) A proceeding authorized by this section shall be brought
13 and venue is in a district court in Travis County.

14 (d) In a proceeding under this section, the attorney general
15 may recover reasonable attorney's fees, investigative costs, and
16 court costs incurred on behalf of the state in the proceeding in the
17 same manner as provided by general law for a private litigant.

18 Sec. 67.115. RECEIVERSHIP. (a) In this section,
19 "financial assistance program recipient" has the meaning assigned
20 by Section 67.114.

21 (b) In addition to the remedies available under Section
22 67.114, at the request of the board, the attorney general shall
23 bring suit in a district court in Travis County for the appointment
24 of a receiver to collect the assets and carry on the business of a
25 financial assistance program recipient if:

26 (1) the action is necessary to cure a default by the
27 recipient; and

1 (2) the recipient is not:

2 (A) a municipality or county; or

3 (B) a district or authority created under Section
4 52, Article III, or Section 59, Article XVI, Texas Constitution.

5 (c) The court shall vest a receiver appointed by the court
6 with any power or duty the court finds necessary to cure the
7 default, including the power or duty to:

8 (1) perform audits;

9 (2) raise wholesale or retail telecommunications
10 infrastructure rates or other fees;

11 (3) fund reserve accounts;

12 (4) make payments of the principal of or interest on
13 bonds, securities, or other obligations purchased or acquired by
14 the board; and

15 (5) take any other action necessary to prevent or to
16 remedy the default.

17 (d) The receiver shall execute a bond in an amount to be set
18 by the court to ensure the proper performance of the receiver's
19 duties.

20 (e) After appointment and execution of bond, the receiver
21 shall take possession of the books, records, accounts, and assets
22 of the financial assistance program recipient specified by the
23 court. Until discharged by the court, the receiver shall perform
24 the duties that the court directs and shall strictly observe the
25 final order involved.

26 (f) On a showing of good cause by the financial assistance
27 program recipient, the court may dissolve the receivership.

1 SUBCHAPTER E. ADMINISTRATIVE PROVISIONS FOR THE BOARD

2 Sec. 67.151. AUDIT. The financial transactions of the
3 board are subject to audit by the state auditor in accordance with
4 Chapter 321, Government Code.

5 Sec. 67.152. PUBLIC INFORMATION RELATING TO BOARD. The
6 board shall prepare information of public interest describing the
7 functions of the board and describing the board's procedures by
8 which complaints are filed with and resolved by the board. The
9 board shall make the information available to the general public
10 and the appropriate state agencies.

11 Sec. 67.153. COPIES OF DOCUMENTS, PROCEEDINGS, ETC. (a)
12 Except as otherwise specifically provided in this code and subject
13 to the specific limitations provided in this code, on application
14 of any person, the board shall furnish certified or other copies of
15 any proceeding or other official record or of any map, paper, or
16 document filed with the board. A certified copy with the seal of
17 the board and the signature of the chairman of the board or the
18 executive administrator is admissible as evidence in any court or
19 administrative proceeding.

20 (b) The board shall provide in its rules the fees that will
21 be charged for copies and is authorized to furnish copies,
22 certified or otherwise, to a person without charge when the
23 furnishing of the copies serves a public purpose. Other statutes
24 concerning fees for copies of records do not apply to the board,
25 except that the fees set by the board for copies prepared by the
26 board shall not exceed those prescribed in Chapter 6703, Government
27 Code.

1 Sec. 67.154. COMPLAINT FILE. (a) The board shall maintain
2 a system to promptly and efficiently act on complaints filed with
3 the board. The board shall maintain information about parties to
4 the complaint, the subject matter of the complaint, a summary of the
5 results of the review or investigation of the complaint, and the
6 complaint's disposition.

7 (b) The board shall make information available describing
8 its procedures for complaint investigation and resolution.

9 Sec. 67.155. NOTICE OF COMPLAINT. The board shall
10 periodically notify the complaint parties of the status of the
11 complaint until final disposition.

12 Sec. 67.1555. REFERRAL FOR INVESTIGATION OR ENFORCEMENT
13 ACTION. (a) The board, as the result of a complaint filed with the
14 board or on the board's own motion, may refer an applicant for or
15 recipient of financial assistance from the board to the commission,
16 the state auditor's office, the Texas Rangers, or another state
17 agency, office, or division, as appropriate, for the investigation
18 of, or the initiation of an enforcement action against, the
19 applicant or recipient.

20 (b) The executive administrator shall transmit the referral
21 to the appropriate state agency, office, or division, monitor the
22 progress of the investigation or enforcement action, and report to
23 the board on a quarterly basis.

24 Sec. 67.1567. REPORTS TO GOVERNOR. (a) The board shall
25 make biennial reports in writing to the governor and the members of
26 the legislature. Each report shall include a statement of the
27 activities of the board and its recommendations for necessary and

1 desirable legislation.

2 (b) The initial report to the Governor must make
3 recommendations concerning:

4 (1) necessary rural broadband infrastructure;

5 (2) an analysis of "back-haul" or "middle-mile" issues
6 in rural broadband delivery;

7 (3) a model or map of existing middle-mile
8 infrastructure;

9 (4) an analysis of statewide coordination of
10 telecommunications infrastructure; and

11 (5) a plan to increase rural adoption and utilization
12 of available and future broadband service.

13 Sec. 67.157. SEAL. The board shall have a seal bearing the
14 words "Texas Telecommunications Infrastructure Development Board"
15 encircling the oak and olive branches common to other official
16 seals.

17 SUBCHAPTER F. EXECUTIVE ADMINISTRATOR

18 Sec. 67.181. GENERAL RESPONSIBILITIES. The executive
19 administrator shall manage the administrative affairs of the board
20 subject to this code and other laws and under the general
21 supervision and direction of the board.

22 Sec. 67.183. EMPLOYMENT OF PERSONNEL. The executive
23 administrator shall employ necessary personnel for the board. The
24 executive administrator may delegate powers and duties to deputy
25 executive administrators.

26 Sec. 67.184. ADMINISTRATIVE ORGANIZATION. The executive
27 administrator, with the approval of the board, may organize and

1 reorganize the administrative sections and divisions of the board
2 in a form and manner that will achieve the greatest efficiency and
3 effectiveness.

4 Sec. 67.185. INFORMATION REQUEST TO COMMISSION. (a) With
5 regard to any matter pending before the board, the executive
6 administrator may obtain from the commission information relating
7 to that matter.

8 (b) On receiving a request from the executive
9 administrator, the commission should make the requested
10 information available within 30 days after the information is
11 requested and shall make the requested information available not
12 later than 90 days after the information is requested.

13 Sec. 67.1867. CAREER LADDER PROGRAM. The executive
14 administrator or his designee shall develop an intra-agency career
15 ladder program, one part of which shall require the intra-agency
16 posting of all non-entry level positions concurrently with any
17 public posting.

18 Sec. 67.187. MERIT PAY. The executive administrator or his
19 designee shall develop a system of annual performance evaluations
20 based on measurable job tasks. All merit pay for board employees
21 must be based on the system established under this section.

22 Sec. 67.188. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) The
23 executive administrator or the executive administrator's designee
24 shall prepare and maintain a written policy statement that
25 implements a program of equal employment opportunity to ensure that
26 all personnel decisions are made without regard to race, color,
27 disability, sex, religion, age, or national origin.

1 (b) The policy statement must include:

2 (1) personnel policies, including policies relating
3 to recruitment, evaluation, selection, training, and promotion of
4 personnel, that show the intent of the board to avoid the unlawful
5 employment practices described by Chapter 21, Labor Code; and

6 (2) an analysis of the extent to which the composition
7 of the board's personnel is in accordance with state and federal law
8 and a description of reasonable methods to achieve compliance with
9 state and federal law.

10 (c) The policy statement must:

11 (1) be updated annually;

12 (2) be reviewed by the state Commission on Human
13 Rights for compliance with Subsection (b)(1); and

14 (3) be filed with the governor's office.

15 Sec. 67.189. APPEARANCES AT HEARINGS. The position of and
16 information developed by the board may be presented by the
17 executive administrator or his designated representative at
18 hearings of the board and commission and at hearings held by
19 federal, state, and local agencies on matters affecting the
20 public's interest in the state's telecommunications infrastructure
21 resources, including matters that have been determined to be
22 policies of the state. The board shall be named a party in any
23 hearing before the commission in which the board requests party
24 status. The board may appeal any ruling, decision, or other act of
25 the commission.

26 Sec. 67.190. CONTRACTS. (a) The executive administrator,
27 on behalf of the board, may negotiate with and, with the consent of

1 the board, may enter into contracts with the United States or any of
2 its agencies for the purpose of carrying out the powers, duties, and
3 responsibilities of the board.

4 (b) The executive administrator, on behalf of the board, may
5 negotiate with and, with the consent of the board, may enter into
6 contracts or other agreements with states and political
7 subdivisions of this state or other entity for the purpose of
8 carrying out the powers, duties, and responsibilities of the board.

9 (c) The executive administrator, on behalf of the board,
10 shall obtain the approval of the attorney general as to the legality
11 of a resolution of the board authorizing state ownership in a
12 project.

13 Sec. 67.191. TRAVEL EXPENSES. The executive administrator
14 is entitled to receive actual and necessary travel expenses. Other
15 employees of the board are entitled to receive travel expenses as
16 provided by the General Appropriations Act.

17 Sec. 67.192. GIFTS AND GRANTS. The executive administrator
18 may apply for, request, solicit, contract for, receive, and accept
19 money and other assistance from any source to carry out the powers
20 and duties provided by this code.

21 Sec. 67.193. EMPLOYEE MOVING EXPENSES. If provided by
22 legislative appropriation, the board may pay the costs of
23 transporting and delivering household goods and effects of
24 employees transferred by the executive administrator from one
25 permanent station to another when, in the judgment of the executive
26 administrator, the transfer will serve the best interest of the
27 state.

1 Sec. 67.194. APPLICATIONS AND OTHER DOCUMENTS. (a) An
2 application, petition, or other document requiring action of the
3 board shall be presented to the executive administrator and handled
4 as provided by this code and in the rules of the board.

5 (b) After an application, petition, or other document
6 requiring action of the board is processed, it shall be presented to
7 the board for action as required by law and the rules of the board.

8 Sec. 67.195. NOTICE OF APPLICATION. (a) At the time an
9 application requiring action of the board is filed and is
10 administratively complete, the board shall give notice of the
11 application to any person who may be affected by the granting of the
12 application.

13 (b) The board shall adopt rules for the notice required by
14 this section.

15 (c) The notice must state:

16 (1) the identifying number given the application by
17 the board;

18 (2) the name and address of the applicant;

19 (3) the date on which the application was submitted;

20 and

21 (4) a brief summary of the information included in the
22 application.

23 Sec. 677.197. INTELLECTUAL PROPERTY OF BOARD. The
24 executive administrator, with the approval of the board and on the
25 board's behalf, may:

26 (1) acquire, apply for, register, secure, hold,
27 protect, and renew under the laws of this state, another state, the

1 United States, or any other nation:

2 (A) a patent for the invention or discovery of:

3 (i) any new and useful process, machine,
4 manufacture, composition of matter, art, or method;

5 (ii) any new use of a known process,
6 machine, manufacture, composition of matter, art, or method; or

7 (iii) any new and useful improvement on a
8 known process, machine, manufacture, composition of matter, art, or
9 method;

10 (B) a copyright for an original work of
11 authorship fixed in any tangible medium of expression, now known or
12 later developed, from which the work may be perceived, reproduced,
13 or otherwise communicated, either directly or with the aid of a
14 machine or device;

15 (C) a trademark, service mark, collective mark,
16 or certification mark for a word, name, symbol, device, or slogan
17 that the board uses to identify and distinguish the board's goods
18 and services from other goods and services; or

19 (D) other evidence of protection or exclusivity
20 issued for intellectual property;

21 (2) contract with a person for the reproduction,
22 public performance, display, advertising, marketing, lease,
23 licensing, sale, use, or other distribution of the board's
24 intellectual property;

25 (3) obtain under a contract described by Subdivision
26 (2) a royalty, license right, or other appropriate means of
27 securing reasonable compensation or thing of nonmonetary value for

1 the exercise of rights with respect to the board's intellectual
2 property;

3 (4) waive, increase, or reduce the amount of
4 compensation or thing of nonmonetary value secured by a contract
5 under Subdivision (3) if the executive administrator, with the
6 approval of the board, determines that the waiver, increase, or
7 reduction will:

8 (A) further a goal or mission of the board; and

9 (B) result in a net benefit to this state; and

10 (5) enforce rules adopted to implement this section.

11 Sec. 67.198. PURCHASE, DONATION, AND SALE OF PROMOTIONAL
12 ITEMS. (a) The executive administrator, with the approval of the
13 board and on the board's behalf, may purchase, donate, sell, or
14 contract for the sale of items to promote the programs of the board,
15 including:

16 (1) caps or other clothing;

17 (2) posters;

18 (3) banners;

19 (4) calendars;

20 (5) books;

21 (6) prints; and

22 (7) other items as determined by the board.

23 (b) The board may use its Internet website to advertise and
24 sell the items described by Subsection (a).

25 (c) Money received from the sale of a promotional item under
26 this section shall be deposited in the general revenue fund and may
27 be used only by the board to further the purposes and programs of

1 the board.

2 (d) Section 403.095, Government Code, does not apply to
3 money deposited in the general revenue fund under this section.

4 SUBCHAPTER G. JUDICIAL REVIEW

5 Sec. 67.241. JUDICIAL REVIEW OF ACTS. (a) A person
6 affected by a ruling, order, decision, or other act of the board may
7 file a petition to review, set aside, modify, or suspend the act of
8 the board.

9 (b) A person affected by a ruling, order, or decision of the
10 board must file his petition within 30 days after the effective date
11 of the ruling, order, or decision. A person affected by an act
12 other than a ruling, order, or decision must file his petition
13 within 30 days after the date the board performed the act.

14 Sec. 67.242. REMEDY FOR BOARD OR EXECUTIVE ADMINISTRATOR
15 INACTION. A person affected by the failure of the board or the
16 executive administrator to act in a reasonable time on an
17 application or to perform any other duty with reasonable promptness
18 may file a petition to compel the board or the executive
19 administrator to show cause why it should not be directed by the
20 court to take immediate action.

21 Sec. 67.243. DILIGENT PROSECUTION OF SUIT. The plaintiff
22 shall prosecute with reasonable diligence any suit brought under
23 Section 67.241 or 67.242 of this code. If the plaintiff does not
24 secure proper service of process or does not prosecute his suit
25 within one year after it is filed, the court shall presume that the
26 suit has been abandoned. The court shall dismiss the suit on a
27 motion for dismissal made by the attorney general unless the

1 plaintiff after receiving due notice can show good and sufficient
2 cause for the delay.

3 Sec. 67.244. VENUE. A suit instituted under Section 67.241
4 or 67.242 of this code must be brought in a district court in Travis
5 County.

6 Sec. 67.245. APPEAL OF DISTRICT COURT JUDGMENT. A judgment
7 or order of a district court in a suit brought for or against the
8 board or the executive administrator is appealable as are other
9 civil cases in which the district court has original jurisdiction.

10 Sec. 67.2467. APPEAL BY EXECUTIVE ADMINISTRATOR PRECLUDED.
11 A ruling, order, decision, or other act of the board may not be
12 appealed by the executive administrator.

13 Sec. 67.247. LAW SUITS; CITATION. Law suits filed by and
14 against the board or the executive administrator shall be in the
15 name of the board. In suits against the board or the executive
16 administrator, citation may be served on the executive
17 administrator.

18 Section 2. This Act takes effect September 1, 2021.