

By: Ellis

S.B. No. 22

A BILL TO BE ENTITLED

AN ACT

relating to the organization, board membership, and functions of certain state agencies and to the transfer of certain functions to other state agencies; providing penalties.

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

ARTICLE 1. TELECONFERENCE MEETING OF LEGISLATIVE BUDGET BOARD

SECTION 1.01. Section 322.003, Government Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) As an exception to Chapter 551 and other law, if the chairman and vice-chairman of the board are physically present at a meeting, then any number of the other members of the board may attend a meeting of the board 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 member of the board to otherwise fully participate in any meeting of the board. This subsection applies without exception with regard to the subject of the meeting or topics considered by the members.

(e) 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;

1           (3) must be open to the public and shall be audible to  
2 the public at the location specified in the notice of the meeting as  
3 the location of the meeting; and

4           (4) must provide two-way audio communication between  
5 all parties attending the meeting during the entire meeting.

6           ARTICLE 2. GOVERNOR'S BUDGET AUTHORITY

7           SECTION 2.01. Subsection (a), Section 401.046, Government  
8 Code, is amended to read as follows:

9           (a) The governor shall deliver a copy of the governor's  
10 budget to each member of the legislature before the governor gives  
11 the message to the legislature required by Section 9, Article IV,  
12 Texas Constitution, at the commencement ~~[not later than the sixth~~  
13 ~~day]~~ of each regular legislative session.

14          SECTION 2.02. Section 401.047, Government Code, is  
15 repealed.

16          ARTICLE 3. ABANDONMENT OF PROCEEDS ON DEMUTUALIZATION

17          SECTION 3.01. Section 72.101, Property Code, is amended by  
18 adding Subsections (c) and (d) to read as follows:

19          (c) Property distributable in the course of a  
20 demutualization or related reorganization of an insurance company  
21 is presumed abandoned on the first anniversary of the date the  
22 property becomes distributable if, at the time of the first  
23 distribution, the last known address of the owner according to the  
24 records of the holder of the property is known to be incorrect or  
25 the distribution or statements related to the distribution are  
26 returned by the post office as undeliverable and the owner has not:

27          (1) communicated in writing with the holder of the

1 property or the holder's agent regarding the interest; or

2 (2) otherwise communicated with the holder regarding  
3 the interest as evidenced by a memorandum or other record on file  
4 with the holder or its agents.

5 (d) Property distributable in the course of a  
6 demutualization or related reorganization of an insurance company  
7 that is not subject to Subsection (c) is presumed abandoned as  
8 otherwise provided by this section.

9 SECTION 3.02. This article takes effect immediately if this  
10 Act receives a vote of two-thirds of all the members elected to each  
11 house, as provided by Section 39, Article III, Texas Constitution.  
12 If this Act does not receive the vote necessary for immediate  
13 effect, this article takes effect November 1, 2003.

14 ARTICLE 4. MEMBERS OF TEXAS VETERANS COMMISSION

15 SECTION 4.01. Subsection (c), Section 434.003, Government  
16 Code, is amended to read as follows:

17 (c) A person having a less than honorable discharge from  
18 military service is not eligible to be a member. No two members may  
19 reside in the same senatorial district~~[, and not more than one~~  
20 ~~member may be from a senatorial district composed of a single~~  
21 ~~county]~~.

22 ARTICLE 5. COMMISSIONER OF INSURANCE

23 SECTION 5.01. Section 31.023, Insurance Code, is amended to  
24 read as follows:

25 Sec. 31.023. QUALIFICATIONS. The commissioner must:

26 (1) be a competent and experienced administrator;

27 (2) be well informed and qualified in the field of

1 insurance and insurance regulation; and

2 (3) have at least 10 years of experience as an  
3 executive in the administration of business or government or as a  
4 practicing attorney or certified public accountant~~[, with at least~~  
5 ~~five years of that experience in the field of insurance or insurance~~  
6 ~~regulation]~~.

7 SECTION 5.02. The change in law made by this article to  
8 Section 31.023, Insurance Code, applies only to the appointment of  
9 the commissioner of insurance on or after the effective date of this  
10 article. A commissioner of insurance appointed before the  
11 effective date of this article is governed by the law as it existed  
12 immediately before that date, and that law is continued in effect  
13 for this purpose.

14 ARTICLE 6. PARDONS AND PAROLES

15 SECTION 6.01. Section 508.001, Government Code, is amended  
16 by amending Subdivision (8) and adding Subdivision (10) to read as  
17 follows:

18 (8) "Parole commissioner" means a person employed by  
19 the board to perform the duties described by Section 508.0441  
20 ~~["Policy board" means the Board of Pardons and Paroles Policy~~  
21 ~~Board]~~.

22 (10) "Presiding officer" means the presiding officer  
23 of the Board of Pardons and Paroles.

24 SECTION 6.02. Subsection (a), Section 508.031, Government  
25 Code, is amended to read as follows:

26 (a) The board consists of seven ~~[18]~~ members appointed by  
27 the governor with the advice and consent of the senate.

1           SECTION 6.03. Section 508.034, Government Code, is amended  
2 to read as follows:

3           Sec. 508.034. GROUND FOR REMOVAL. (a) It is a ground for  
4 removal from the board that a member:

5                   (1) does not have at the time of taking office the  
6 qualification required by Section 508.032(b) for appointment to the  
7 board;

8                   (2) is ineligible for membership under Section  
9 508.033;

10                  (3) is unable to discharge the member's duties for a  
11 substantial part of the term for which the member is appointed  
12 because of illness or disability; or

13                  (4) is absent from more than half of the regularly  
14 scheduled board or panel meetings that the member is eligible to  
15 attend during each calendar year, except when the absence is  
16 excused by ~~[majority vote of]~~ the presiding officer ~~[board]~~.

17           (b) ~~[It is a ground for removal from the board and the policy~~  
18 ~~board if a member of the policy board is absent from more than half~~  
19 ~~of the regularly scheduled policy board meetings that the member is~~  
20 ~~eligible to attend during each calendar year.~~

21           ~~[(c)]~~ The board administrator or the board administrator's  
22 designee shall provide to members of the board~~[, to members of the~~  
23 ~~policy board,~~] and to employees, as often as necessary, information  
24 regarding their qualification for office or employment under this  
25 chapter and their responsibilities under applicable laws relating  
26 to standards of conduct for state officers or employees.

27           (c) ~~[(d)]~~ The validity of an action of~~[+]~~

1           ~~[(1)]~~ the board or panel is not affected by the fact  
2 that the action is taken when a ground for removal of a board member  
3 exists~~[, and~~

4           ~~[(2) the policy board is not affected by the fact that~~  
5 ~~the action is taken when a ground for removal of a member of the~~  
6 ~~policy board exists]~~.

7           (d) ~~[(e)]~~ If the general counsel to the board has knowledge  
8 that a potential ground for removal exists, the general counsel  
9 shall notify the presiding officer of the board of the potential  
10 ground. The presiding officer shall notify the governor and the  
11 attorney general that a potential ground for removal exists. If the  
12 potential ground for removal involves the presiding officer, the  
13 general counsel to the board shall notify the governor and the  
14 attorney general that a potential ground for removal exists.

15           (e) ~~[(f)]~~ It is a ground for removal from the board that a  
16 member fails to comply with policies or rules adopted by the  
17 ~~[policy]~~ board.

18           SECTION 6.04. Section 508.035, Government Code, is amended  
19 by amending Subsection (c) and adding Subsection (d) to read as  
20 follows:

21           (c) The presiding officer reports directly to the governor  
22 and serves as the administrative head of the ~~[policy board and the]~~  
23 board.

24           (d) The presiding officer may:

25               (1) delegate responsibilities and authority to other  
26 members of the board, to parole commissioners, or to employees of  
27 the board;

1           (2) appoint advisory committees from the membership of  
2 the board or from parole commissioners to further the efficient  
3 administration of board business; and

4           (3) establish policies and procedures to further the  
5 efficient administration of the business of the board.

6           SECTION 6.05. Section 508.036, Government Code, as amended  
7 by Section 31.01, Senate Bill No. 287, Acts of the 78th Legislature,  
8 Regular Session, 2003, is amended to read as follows:

9           Sec. 508.036. [~~POLICY BOARD: COMPOSITION,~~] GENERAL  
10 ADMINISTRATIVE DUTIES. (a) The presiding officer [~~governor shall~~  
11 ~~designate seven members of the board to serve as the Board of~~  
12 ~~Pardons and Paroles Policy Board. The governor shall designate the~~  
13 ~~presiding officer of the board as one of the seven members of the~~  
14 ~~policy board, and the presiding officer of the board shall serve as~~  
15 ~~presiding officer of the policy board. Service on the policy board~~  
16 ~~is an additional duty of office for members appointed to the policy~~  
17 ~~board.~~

18           [~~(b) Members of the board designated as members of the~~  
19 ~~policy board serve on the policy board for six-year terms that are~~  
20 ~~concurrent with their six-year terms on the board, with the service~~  
21 ~~of two or three members expiring February 1 of each odd-numbered~~  
22 ~~year.~~

23           [~~(c) The policy board~~] shall:

24           (1) develop and implement policies that clearly  
25 separate the policy-making responsibilities of the board and the  
26 management responsibilities of the board administrator, parole  
27 commissioners, and the staff of the board [~~adopt rules relating to~~

1 ~~the decision-making processes used by the board and parole panels];~~

2 (2) establish caseloads and required work hours for  
3 members of the board and parole commissioners ~~[assign duties to~~  
4 ~~members of the policy board that are in addition to the duties those~~  
5 ~~members have in handling a caseload];~~

6 (3) update parole guidelines, assign precedential  
7 value to previous decisions of the board relating to the granting of  
8 parole and the revocation of parole or mandatory supervision, and  
9 develop policies to ensure that members of the board and parole  
10 commissioners use guidelines and previous decisions of the board  
11 and parole commissioners in making decisions under this chapter;

12 (4) require members of the board and parole  
13 commissioners to file activity reports~~[, on forms provided by the~~  
14 ~~policy board,]~~ that provide information on release decisions made  
15 by members of the board and parole commissioners, the workload and  
16 hours worked of the members of the board and parole commissioners,  
17 and the use of parole guidelines by members of the board and parole  
18 commissioners; and

19 (5) report at least annually to the governor and the  
20 legislature on the [board] activities of the board and parole  
21 commissioners, parole release decisions, and the use of parole  
22 guidelines by the board and parole commissioners.

23 (b) The board shall:

24 (1) adopt rules relating to the decision-making  
25 processes used by the board and parole panels;

26 (2) prepare information of public interest describing  
27 the functions of the board and make the information available to the



1 public and appropriate state agencies;

2 (3) comply with federal and state laws related to  
3 program and facility accessibility; and

4 (4) prepare annually a complete and detailed written  
5 report that meets the reporting requirements applicable to  
6 financial reporting provided in the General Appropriations Act and  
7 accounts for all funds received and disbursed by the board during  
8 the preceding fiscal year.

9 (c) The board administrator shall prepare and maintain a  
10 written plan that describes how a person who does not speak English  
11 can be provided reasonable access to the board's programs and  
12 services.

13 (d) The board, in performing its duties, is subject to the  
14 open meetings law, Chapter 551, and the administrative procedure  
15 law, Chapter 2001. This subsection does not affect the provisions  
16 of Section 2001.223 exempting hearings and interviews conducted by  
17 the board or the division from Section 2001.038 and Subchapters  
18 C-H, Chapter 2001.

19 SECTION 6.06. Section 508.0362, Government Code, is amended  
20 to read as follows:

21 Sec. 508.0362. TRAINING REQUIRED. (a) (1) A person who is  
22 appointed to and qualifies for office as a member of the board [~~or~~  
23 ~~the policy board~~] may not vote, deliberate, or be counted as a  
24 member in attendance at a meeting of the board [~~or policy board~~]  
25 until the person completes at least one course of a training program  
26 that complies with this section.

27 (2) A parole commissioner employed by the board may

1 not vote or deliberate on a matter described by Section 508.0441  
2 until the person completes at least one course of a training program  
3 that complies with this section.

4 (b) A training program must provide information to the  
5 person regarding:

6 (1) the enabling legislation that created the board  
7 ~~[and the policy board]~~;

8 (2) the programs operated by the board;

9 (3) the role and functions of the board and parole  
10 commissioners;

11 (4) the rules of the board;

12 (5) the current budget for the board;

13 (6) the results of the most recent formal audit of the  
14 board;

15 (7) the requirements of the:

16 (A) open meetings law, Chapter 551;

17 (B) open records law, Chapter 552; and

18 (C) administrative procedure law, Chapter 2001;

19 (8) the requirements of the conflict of interest laws  
20 and other laws relating to public officials; and

21 (9) any applicable ethics policies adopted by the  
22 ~~[policy]~~ board or the Texas Ethics Commission.

23 (c) A person appointed to the board ~~[or policy board]~~ is  
24 entitled to reimbursement, as provided by the General  
25 Appropriations Act, for the travel expenses incurred in attending  
26 the training program regardless of whether the attendance at the  
27 program occurs before or after the person qualifies for office.

SECTION 6.07. Subsection (a), Section 508.040, Government Code, is amended to read as follows:

(a) The presiding officer is responsible for the employment and supervision of ~~[policy board shall employ and supervise]~~:

(1) parole commissioners;

(2) a general counsel to the board;

(3) ~~[(2)]~~ a board administrator to manage the day-to-day activities of the board;

(4) ~~[(3)]~~ hearing officers;

(5) ~~[(4)]~~ personnel to assist in clemency and hearing matters; and

(6) ~~[(5)]~~ secretarial or clerical personnel.

SECTION 6.08. Section 508.041, Government Code, is amended to read as follows:

Sec. 508.041. DESIGNEE TRAINING; HANDBOOK. (a) The ~~[policy]~~ board shall develop and implement:

(1) a training program that each newly hired employee of the board designated to conduct hearings under Section 508.281 must complete before conducting a hearing without the assistance of a board member or experienced parole commissioner or designee; and

(2) a training program to provide an annual update to designees of the board on issues and procedures relating to the revocation process.

(b) The ~~[policy]~~ board shall prepare and biennially update a procedural manual to be used by designees of the board. The ~~[policy]~~ board shall include in the manual:

(1) descriptions of decisions in previous hearings

1 determined by the [~~policy~~] board to have value as precedents for  
2 decisions in subsequent hearings;

3 (2) laws and court decisions relevant to decision  
4 making in hearings; and

5 (3) case studies useful in decision making in  
6 hearings.

7 (c) The [~~policy~~] board shall prepare and update as necessary  
8 a handbook to be made available to participants in hearings under  
9 Section 508.281, such as defense attorneys, persons released on  
10 parole or mandatory supervision, and witnesses. The handbook must  
11 describe in plain language the procedures used in a hearing under  
12 Section 508.281.

13 SECTION 6.09. Section 508.042, Government Code, is amended  
14 to read as follows:

15 Sec. 508.042. TRAINING PROGRAM FOR MEMBERS AND PAROLE  
16 COMMISSIONERS. (a) The [~~policy~~] board shall develop for board  
17 members and parole commissioners a comprehensive training and  
18 education program on the criminal justice system, with special  
19 emphasis on the parole process.

20 (b) (1) A new member may not participate in a vote of the  
21 board or a panel, deliberate, or be counted as a member in  
22 attendance at a meeting of the board [~~or policy board~~] until the  
23 member completes the program.

24 (2) A new parole commissioner may not participate in a  
25 vote of a panel until the commissioner completes the program. This  
26 subdivision does not apply to a new parole commissioner who as a  
27 board member completed the program.

SECTION 6.10. Subchapter B, Chapter 508, Government Code, is amended by amending Section 508.044 and adding Section 508.0441 to read as follows:

Sec. 508.044. POWERS AND DUTIES OF BOARD. ~~[(a)]~~ A board member shall give full time to the duties of the member's office, including ~~[-~~

~~[(b) In addition to performing the]~~ duties imposed on the board by the Texas Constitution and other law.

Sec. 508.0441. RELEASE AND REVOCATION DUTIES. (a) Board ~~[-~~ board] members and parole commissioners shall determine:

(1) which inmates are to be released on parole or mandatory supervision;

(2) conditions of parole or mandatory supervision, including special conditions;

(3) the modification and withdrawal of conditions of parole or mandatory supervision;

(4) which releasees may be released from supervision and reporting; and

(5) the continuation, modification, and revocation of parole or mandatory supervision.

(b) ~~[(c)]~~ The ~~[policy]~~ board shall develop and implement a policy that clearly defines circumstances under which a board member or parole commissioner should disqualify himself or herself from voting on:

(1) a parole decision; or

(2) a decision to revoke parole or mandatory supervision.

1        (c) [~~(d)~~] The [~~policy~~] board may adopt reasonable rules as  
2    [~~the policy board considers~~] proper or necessary relating to:

3            (1) the eligibility of an inmate for release on parole  
4    or release to mandatory supervision;

5            (2) the conduct of a parole or mandatory supervision  
6    hearing; or

7            (3) conditions to be imposed on a releasee.

8        (d) [~~(e)~~] The presiding officer [~~policy board~~] may provide  
9    a written plan for the administrative review of actions taken by a  
10   parole panel by a review panel [~~the entire membership or by a subset~~  
11   ~~of the entire membership of the board~~].

12        (e) [~~(f)~~] Board members and parole commissioners shall, at  
13   the direction of the presiding officer, file activity reports on  
14   duties performed under this chapter.

15        SECTION 6.11. Subsections (a) and (b), Section 508.045,  
16   Government Code, are amended to read as follows:

17        (a) Except as provided by Section 508.046, board members and  
18   parole commissioners shall act in panels composed of three [~~persons~~  
19   ~~each~~] in matters of:

20            (1) release on parole;

21            (2) release to mandatory supervision; and

22            (3) revocation of parole or mandatory supervision.

23        (b) The presiding officer [~~of the board~~] shall designate the  
24   composition of each panel, and may designate panels composed only  
25   of board members or composed of any combination of members and  
26   parole commissioners.

27        SECTION 6.12. Subsection (a), Section 508.047, Government

Code, is amended to read as follows:

(a) The members of the [~~policy~~] board shall meet at least once in each quarter of the calendar year at a site determined by the presiding officer.

SECTION 6.13. Section 508.049, Government Code, is amended to read as follows:

Sec. 508.049. MISSION STATEMENT. (a) The [~~policy~~] board, after consultation with the governor and the Texas Board of Criminal Justice, shall adopt a mission statement that reflects the responsibilities for the operation of the parole process that are assigned to the [~~policy board, the~~] board, the division, the department, or the Texas Board of Criminal Justice.

(b) The [~~policy~~] board shall include in the mission statement a description of specific locations at which the board intends to conduct business related to the operation of the parole process.

SECTION 6.14. Section 508.082, Government Code, is amended to read as follows:

Sec. 508.082. RULES. The [~~policy~~] board shall adopt rules relating to:

(1) the submission and presentation of information and arguments to the board, a parole panel, and the department for and in behalf of an inmate; and

(2) the time, place, and manner of contact between a person representing an inmate and:

(A) a member of the board or a parole commissioner;

1 (B) an employee of the board; or

2 (C) an employee of the department.

3 SECTION 6.15. Subsection (g), Section 508.141, Government  
4 Code, as added by Senate Bill No. 917, Acts of the 78th Legislature,  
5 Regular Session, 2003, is amended to read as follows:

6 (g) The [~~policy~~] board shall adopt a policy establishing the  
7 date on which the board may reconsider for release an inmate who has  
8 previously been denied release. The policy must require the board  
9 to reconsider for release an inmate serving a sentence for an  
10 offense listed in Section 508.149(a) during a month designated by  
11 the parole panel that denied release. The designated month must  
12 begin after the first anniversary of the date of the denial and end  
13 before the fifth anniversary of the date of the denial. The policy  
14 must require the board to reconsider for release an inmate other  
15 than an inmate serving a sentence for an offense listed in Section  
16 508.149(a) as soon as practicable after the first anniversary of  
17 the date of the denial.

18 SECTION 6.16. Subsection (b), Section 508.144, Government  
19 Code, is amended to read as follows:

20 (b) If a board member or parole commissioner deviates from  
21 the parole guidelines in voting on a parole decision, the member or  
22 parole commissioner shall:

23 (1) produce a brief written statement describing the  
24 circumstances regarding the departure from the guidelines; and

25 (2) place a copy of the statement in the file of the  
26 inmate for whom the parole decision was made.

27 SECTION 6.17. Subsection (b), Section 508.153, Government



Code, is amended to read as follows:

(b) If more than one person is entitled to appear in person before the board members or parole commissioners, only the person chosen by all persons entitled to appear as the persons' sole representative may appear [~~before the board members~~].

SECTION 6.18. Subsection (a), Section 508.281, Government Code, is amended to read as follows:

(a) A releasee, a person released although ineligible for release, or a person granted a conditional pardon is entitled to a hearing before a parole panel or a designated agent of the board under the rules adopted by the [~~policy~~] board and within a period that permits a parole panel, a designee of the board, or the department to dispose of the charges within the periods established by Sections 508.282(a) and (b) if the releasee or person:

(1) is accused of a violation of the releasee's parole or mandatory supervision or the person's conditional pardon, on information and complaint by a peace officer or parole officer; or

(2) is arrested after an ineligible release.

SECTION 6.19. Subsection (c), Section 508.313, Government Code, as amended by Section 3, Senate Bill No. 519, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

(c) The department, on request or in the normal course of official business, shall provide information that is confidential and privileged under Subsection (a) to:

(1) the governor;

(2) a member of the board or a parole commissioner;

(3) the Criminal Justice Policy Council in performing

1 duties of the council under Section 413.017; or

2 (4) an eligible entity requesting information for a  
3 law enforcement, prosecutorial, correctional, clemency, or  
4 treatment purpose.

5 SECTION 6.20. Section 492.0131, Government Code, is amended  
6 to read as follows:

7 Sec. 492.0131. PAROLE RULES, POLICIES, PROCEDURES. The  
8 board and the presiding officer of the Board of Pardons and Paroles  
9 [~~Policy Board~~] shall jointly review all rules, policies, and  
10 procedures of the department and the Board of Pardons and Paroles  
11 that relate to or affect the operation of the parole process. The  
12 board and the presiding officer of the Board of Pardons and Paroles  
13 [~~policy board~~] shall identify areas of inconsistency between the  
14 department and the Board of Pardons and Paroles and shall amend  
15 rules or change policies and procedures as necessary for consistent  
16 operation of the parole process.

17 SECTION 6.21. Section 508.0361, Government Code, is  
18 repealed.

19 SECTION 6.22. (a) The governor shall appoint new members  
20 to the Board of Pardons and Paroles on or before January 1, 2004,  
21 and the terms of members serving on December 31, 2003, expire on the  
22 appointment of the new members. The governor may appoint but is not  
23 required to appoint as new members persons who served on the board  
24 before January 1, 2004.

25 (b) Of the new members of the Board of Pardons and Paroles,  
26 the governor shall appoint two to serve terms expiring February 1,  
27 2005, two to serve terms expiring February 1, 2007, and three to

1 serve terms expiring February 1, 2009. On the expiration of the  
2 terms of the initial members of the new board, the term of a member  
3 appointed by the governor is six years.

4 (c) On November 1, 2003, a rule of the Board of Pardons and  
5 Paroles Policy Board is a rule of the Board of Pardons and Paroles.

6 ARTICLE 7. DESIGNATION OF PRESIDING OFFICERS

7 SECTION 7.01. Chapter 651, Government Code, is amended by  
8 adding Section 651.010 to read as follows:

9 Sec. 651.010. APPOINTMENT OF PRESIDING OFFICERS BY  
10 GOVERNOR. (a) In this section, "state agency" means a department,  
11 commission, board, office, council, authority, or other agency in  
12 the executive branch of state government that is created by the  
13 constitution or a statute of this state, including:

14 (1) a university system or institution of higher  
15 education as defined by Section 61.003, Education Code; and

16 (2) a river authority as defined by Section 30.003,  
17 Water Code.

18 (b) Notwithstanding other law, the governor may designate a  
19 member of the governing body of each state agency as the presiding  
20 officer of that governing body to serve in that capacity at the  
21 pleasure of the governor.

22 (c) The governor may designate as the presiding officer only  
23 a member of the governing body who has been confirmed by the senate.  
24 If no member of the governing body has been confirmed by the senate  
25 and the legislature is not in session, the governor may designate as  
26 the presiding officer a member who has not yet been confirmed by the  
27 senate but who is subject to senate confirmation.

1        (d) This section does not apply to:

2                (1) a state agency that is headed by one or more  
3 statewide-elected officials;

4                (2) a state agency for which a majority of the  
5 governing body members are not subject to confirmation by the  
6 senate;

7                (3) an entity that advises or reports to a state agency  
8 headed by one or more statewide-elected officials;

9                (4) a river authority whose governing body is elected;  
10 or

11                (5) a junior college district.

12        ARTICLE 8.    ABOLITION OF TEXAS COMMISSION ON PRIVATE SECURITY

13                SECTION 8.01.    Section    1702.002,    Occupations    Code,    is  
14 amended by adding Subdivisions (1-a) and (5-a) to read as follows:

15                (1-a) "Board" means the Texas Private Security Board.

16                (5-a) "Department" means the Department of Public  
17 Safety of the State of Texas.

18                SECTION 8.02.    Subchapter A, Chapter 1702, Occupations Code,  
19 is amended by adding Sections 1702.005 and 1702.006 to read as  
20 follows:

21                Sec. 1702.005.    DEPARTMENT OF PUBLIC SAFETY. (a) The board  
22 created under Section 1702.021 is a part of the department. The  
23 department shall administer this chapter through the board.

24                (b) A reference in this chapter or another law to the Texas  
25 Commission on Private Security means the board.

26                Sec. 1702.006.    TEXAS DEPARTMENT OF HEALTH. (a) In this  
27 section, "personal emergency response system" means an alarm system

1 that is:

2 (1) installed in the residence of a person;  
3 (2) monitored by an alarm systems company; and  
4 (3) designed to permit the person to signal the  
5 occurrence of a medical emergency on the part of the person so that  
6 the company may dispatch appropriate aid.

7 (b) Notwithstanding the other provisions of this chapter,  
8 the Texas Department of Health shall administer the provisions of  
9 this chapter that are applicable to the following persons who  
10 provide services subject to regulation under this chapter only in  
11 connection with personal emergency response systems:

12 (1) an alarm systems company;  
13 (2) an alarm systems installer;  
14 (3) an alarm systems monitor;  
15 (4) a manager or branch office manager; and  
16 (5) a security salesperson.

17 (c) A reference in this chapter or another law to the Texas  
18 Commission on Private Security in connection with a person  
19 described by Subsection (b) means the Texas Department of Health.

20 SECTION 8.03. Subsection (a), Section 1702.021,  
21 Occupations Code, as amended by Senate Bill No. 287, Acts of the  
22 78th Legislature, Regular Session, 2003, is amended to read as  
23 follows:

24 (a) The Texas [~~Commission on~~] Private Security Board  
25 consists of seven [~~eight~~] members appointed by the governor with  
26 the advice and consent of the senate as follows:

27 (1) four public members, each of whom is a citizen of

1 the United States;

2 (2) one member who~~+~~

3 [~~(A)~~] is licensed under this chapter as a private  
4 investigator;

5 [~~(B)~~ has been engaged as a private investigator  
6 for at least the five years preceding appointment; and

7 [~~(C)~~ is not employed by a person who employs  
8 another member of the commission;]

9 (3) one member who is licensed under this chapter as an  
10 alarm systems company; and [~~who~~+

11 [~~(A)~~ has been engaged as an alarm systems company  
12 for at least the five years preceding appointment; and

13 [~~(B)~~ is not employed by a person who employs  
14 another member of the commission;]

15 (4) one member who~~+~~

16 [~~(A)~~] is licensed under this chapter as the owner  
17 or operator of a guard company~~+~~

18 [~~(B)~~ has been the owner or operator of the guard  
19 company for at least the five years preceding appointment; and

20 [~~(C)~~ is not employed by a person who employs  
21 another member of the commission; and

22 [~~(5)~~ one member who~~+~~

23 [~~(A)~~ holds a license, security officer  
24 commission, or registration under this chapter;

25 [~~(B)~~ has been engaged in activity regulated by  
26 the commission under this chapter for at least the five years  
27 preceding appointment; and

1                   [~~(C)~~ is not employed by a person who employs  
2 ~~another member of the commission~~].

3           SECTION 8.04. Section 1702.025, Occupations Code, as  
4 amended by Senate Bill No. 287, Acts of the 78th Legislature,  
5 Regular Session, 2003, and Section 1702.026, Occupations Code, are  
6 amended to read as follows:

7           Sec. 1702.025. TERMS; VACANCIES. (a) The board [~~appointed~~  
8 ~~commission~~] members serve staggered six-year terms, with the terms  
9 of two or three [~~appointed~~] members expiring on January 31 of each  
10 odd-numbered year.

11           (b) If a vacancy occurs during the term of a board [~~an~~  
12 ~~appointed commission~~] member, the governor shall appoint a new  
13 member to fill the unexpired term.

14           Sec. 1702.026. OFFICERS. (a) The governor shall designate  
15 one board [~~commission~~] member as presiding officer to serve in that  
16 capacity at the will of the governor. The governor shall designate  
17 the presiding officer without regard to race, creed, color,  
18 disability, sex, religion, age, or national origin.

19           (b) The board [~~commission, including the representative of~~  
20 ~~the director of the Texas Department of Public Safety if one is~~  
21 ~~designated,~~] shall elect from among its members an assistant  
22 presiding officer and a secretary to serve two-year terms beginning  
23 on September 1 of each odd-numbered year.

24           (c) The presiding officer of the board [~~commission~~] or, in  
25 the absence of the presiding officer, the assistant presiding  
26 officer shall preside at each board [~~commission~~] meeting and  
27 perform the other duties prescribed by this chapter.

1           SECTION 8.05. Section 1702.022, Occupations Code, is  
2 repealed.

3           SECTION 8.06. Not later than January 1, 2004, the governor  
4 shall appoint the members of the Texas Private Security Board, as  
5 required under Section 1702.021, Occupations Code, as amended by  
6 this article. In appointing the initial members of the board under  
7 this section, the governor shall appoint:

8                   (1) two members for terms expiring January 31, 2005;

9                   (2) two members for terms expiring January 31, 2007;

10 and

11                   (3) three members for terms expiring January 31, 2009.

12           SECTION 8.07. (a) On January 1, 2004:

13                   (1) all functions and activities performed by the  
14 Texas Commission on Private Security immediately before that date  
15 are transferred to the Texas Private Security Board of the  
16 Department of Public Safety of the State of Texas or the Texas  
17 Department of Health, as applicable;

18                   (2) a rule or form adopted by the Texas Commission on  
19 Private Security is a rule or form of the Texas Private Security  
20 Board or the Texas Department of Health, as applicable, and remains  
21 in effect until amended or replaced by that board or department;

22                   (3) a reference in law or an administrative rule to the  
23 Texas Commission on Private Security means the Texas Private  
24 Security Board or the Texas Department of Health, as applicable;

25                   (4) a complaint, investigation, or other proceeding  
26 before the Texas Commission on Private Security is transferred  
27 without change in status to the Texas Private Security Board or the



1 Texas Department of Health, as determined by a memorandum of  
2 understanding between the Department of Public Safety of the State  
3 of Texas and the Texas Department of Health, and the Texas Private  
4 Security Board or the Texas Department of Health, as applicable,  
5 assumes, as appropriate and without a change in status, the  
6 position of the Texas Commission on Private Security in an action or  
7 proceeding to which the Texas Commission on Private Security is a  
8 party;

9 (5) all property in the custody of the Texas  
10 Commission on Private Security is transferred to the Texas Private  
11 Security Board or the Texas Department of Health, as determined by a  
12 memorandum of understanding between the Department of Public Safety  
13 of the State of Texas and the Texas Department of Health; and

14 (6) the unexpended and unobligated balance of any  
15 money appropriated by the legislature for the Texas Commission on  
16 Private Security is transferred to the Texas Private Security Board  
17 or the Texas Department of Health, as determined by a memorandum of  
18 understanding between the Department of Public Safety of the State  
19 of Texas and the Texas Department of Health.

20 (b) Before January 1, 2004, the Texas Commission on Private  
21 Security may agree with the Department of Public Safety of the State  
22 of Texas and the Texas Department of Health to transfer any property  
23 of the Texas Commission on Private Security to the Department of  
24 Public Safety of the State of Texas or the Texas Department of  
25 Health to implement the transfer required by this article. The  
26 memorandum of understanding between the Texas Department of Health  
27 and the Department of Public Safety of the State of Texas shall

1 ensure there is no duplicative regulatory effect.

2 (c) During the period beginning on the effective date of  
3 this article and ending on January 1, 2004, the Texas Commission on  
4 Private Security shall continue to perform functions and activities  
5 under Chapter 1702, Occupations Code, as if that chapter had not  
6 been amended by this article, and the former law is continued in  
7 effect for that purpose.

8 ARTICLE 9. JOINT INTERIM COMMITTEE ON  
9 POSTCONVICTION EXONERATIONS

10 SECTION 9.01. (a) The joint interim committee on  
11 postconviction exonerations is established to:

12 (1) study the causes of and investigate wrongful  
13 criminal convictions;

14 (2) identify appropriate improvements in the  
15 criminal justice system to prevent future wrongful convictions;

16 (3) recommend policies, procedures, practices, and  
17 legislation needed to prevent future wrongful convictions; and

18 (4) assess the procedures used by counties to ensure  
19 due process and suggest a statewide model for procedures ensuring  
20 due process.

21 (b) The joint interim committee is composed of the following  
22 nine members:

23 (1) an attorney who represents the state in the  
24 prosecution of felonies, as appointed by the attorney general;

25 (2) two members of the criminal justice committee of  
26 the senate who are appointed by the lieutenant governor;

27 (3) two members of the criminal jurisprudence

1 committee of the house of representatives who are appointed by the  
2 speaker of the house of representatives;

3 (4) a member of the judiciary who is appointed by the  
4 chief justice of the supreme court;

5 (5) two law professors who are appointed by the  
6 chancellor of The University of Texas System, one of whom works in  
7 the forensic science field; and

8 (6) a criminal defense attorney who is appointed by  
9 the Texas Criminal Defense Lawyers Association.

10 (c) The lieutenant governor shall designate one of the  
11 members appointed to the joint interim committee as described by  
12 this section to serve as the chair of the interim committee.

13 (d) The joint interim committee shall meet initially at the  
14 call of the chair of the interim committee, and the interim  
15 committee shall subsequently hold meetings and public hearings at  
16 the call of the chair. To the extent that it is financially  
17 possible, the interim committee shall hold public hearings in  
18 multiple locations across this state.

19 (e) The joint interim committee may issue process as  
20 provided by the senate and house of representatives rules of  
21 procedure and by Section 301.024, Government Code, and has all  
22 other powers and duties provided to special committees by the  
23 senate and house of representatives rules of procedure, by  
24 Subchapter B, Chapter 301, Government Code, and by policies of the  
25 senate and house committees on administration.

26 (f) From the contingent expense fund of the senate and the  
27 contingent expense fund of the house of representatives equally,

1 the members of the joint interim committee shall be reimbursed for  
2 expenses incurred in carrying out the provisions of this article in  
3 accordance with the senate and house of representatives rules of  
4 procedure and the policies of the senate and house committees on  
5 administration. Other necessary expenses of operation shall be  
6 paid from the contingent expense fund of the senate and the  
7 contingent expense fund of the house of representatives equally.

8 (g) Not later than October 1, 2004, the joint interim  
9 committee shall prepare and deliver to the governor, the lieutenant  
10 governor, and the speaker of the house of representatives copies of  
11 the report containing the interim committee's findings and  
12 recommendations.

13 SECTION 9.02. A person or association required by this  
14 article to appoint a member to the joint interim committee on  
15 postconviction exonerations shall make the appointment not later  
16 than December 1, 2003.

17 ARTICLE 10. REPORTS

18 SECTION 10.01. Subsection (a), Section 363.064, Health and  
19 Safety Code, is amended to read as follows:

20 (a) A regional or local solid waste management plan must:

21 (1) include a description and an assessment of current  
22 efforts in the geographic area covered by the plan to minimize  
23 production of municipal solid waste, including sludge, and efforts  
24 to reuse or recycle waste;

25 (2) identify additional opportunities for waste  
26 minimization and waste reuse or recycling;

27 (3) include a description and assessment of existing

1 or proposed community programs for the collection of household  
2 hazardous waste;

3 (4) make recommendations for encouraging and  
4 achieving a greater degree of waste minimization and waste reuse or  
5 recycling in the geographic area covered by the plan;

6 (5) encourage cooperative efforts between local  
7 governments in the siting of landfills for the disposal of solid  
8 waste;

9 (6) consider the need to transport waste between  
10 municipalities, from a municipality to an area in the jurisdiction  
11 of a county, or between counties, particularly if a technically  
12 suitable site for a landfill does not exist in a particular area;

13 (7) allow a local government to justify the need for a  
14 landfill in its jurisdiction to dispose of the solid waste  
15 generated in the jurisdiction of another local government that does  
16 not have a technically suitable site for a landfill in its  
17 jurisdiction;

18 (8) establish recycling rate goals appropriate to the  
19 area covered by the plan;

20 (9) recommend composting programs for yard waste and  
21 related organic wastes that may include:

22 (A) creation and use of community composting  
23 centers;

24 (B) adoption of the "Don't Bag It" program for  
25 lawn clippings developed by the Texas Agricultural Extension  
26 Service; and

27 (C) development and promotion of education

1 programs on home composting, community composting, and the  
2 separation of yard waste for use as mulch;

3 (10) include an inventory of municipal solid waste  
4 landfill units, including:

5 (A) landfill units no longer in operation;

6 (B) the exact boundaries of each former landfill  
7 unit or, if the exact boundaries are not known, the best  
8 approximation of each unit's boundaries;

9 (C) a map showing the approximate boundaries of  
10 each former landfill unit, if the exact boundaries are not known;

11 (D) the current owners of the land on which the  
12 former landfill units were located; and

13 (E) the current use of the land;

14 (11) assess the need for new waste disposal capacity;  
15 and

16 (12) include a public education program[, and  
17 ~~[(13) include waste reduction in accordance with the~~  
18 ~~goal established under Section 361.0201(d), to the extent that~~  
19 ~~funds are available]~~.

20 SECTION 10.02. The heading to Section 5.178, Water Code, is  
21 amended to read as follows:

22 Sec. 5.178. ANNUAL REPORTS; BIENNIAL APPENDICES  
23 ~~[APPENDIXES]~~.

24 SECTION 10.03. Subsection (b), Section 5.178, Water Code,  
25 is amended to read as follows:

26 (b) The report due by December 1 of an even-numbered year  
27 shall include, in addition:



1           (b) The Texas Commission on Environmental Quality's  
2     permitting processes warrant, and the legislature directs, an  
3     in-depth evaluation, including the identification of problems,  
4     potential options, and solutions. The evaluation must solicit and  
5     consider input from all stakeholders, including public hearings and  
6     the opportunity for submission of written and oral comments. The  
7     solutions identified in the final assessment of the commission's  
8     permitting processes must ensure that:

9           (1) all relevant environmental protection standards  
10    are maintained at a level that at least equals the current level;

11           (2) the commission's permitting processes are  
12    streamlined;

13           (3) the commission's permitting processes are  
14    user-friendly to citizens and promote sound economic development;  
15    and

16           (4) all stakeholder concerns are considered.

17           (c) A joint committee of the Senate Natural Resources  
18     Committee and House Environmental Regulation Committee shall  
19     conduct the evaluation and final assessment required by Subsection  
20     (b) of this section and submit its findings not later than November  
21     1, 2004, to the governor, the speaker of the house of  
22     representatives, and the Texas Commission on Environmental  
23     Quality.

24           (d) It is the intent of the legislature to effectuate the  
25     appropriate solutions through legislation at the earliest  
26     opportunity subsequent to receipt of the study committee's final  
27     assessment.



ARTICLE 12. CONSIDERATIONS BY THE BOARD OF  
PARDONS AND PAROLES REGARDING CLEMENCY MATTERS

SECTION 12.01. Subsection (b), Section 508.047, Government Code, is amended to read as follows:

(b) Except as provided by Article 48.011, Code of Criminal Procedure, the ~~[The]~~ members of the board are not required to meet as a body to perform the members' duties in clemency matters.

SECTION 12.02. Section 551.124, Government Code, is amended to read as follows:

Sec. 551.124. BOARD OF PARDONS AND PAROLES. At the call of the presiding officer of the Board of Pardons and Paroles, the board may hold a hearing on clemency matters by telephone conference call. Other than the deliberations of the board, the proceedings at the telephone conference call hearing shall be recorded and made available to the public in the same manner as if the members of the board had met as a body to hold the hearing.

SECTION 12.03. Chapter 48, Code of Criminal Procedure, is amended by adding Article 48.011 to read as follows:

Art. 48.011. MEETINGS: CAPITAL CASE. (a) In a capital case, the members of the Board of Pardons and Paroles shall perform the members' duties in clemency matters by meeting as a body or by participating in a telephone conference call as permitted by Section 551.124, Government Code.

(b) The Board of Pardons and Paroles shall deliberate privately, but at the conclusion of deliberations each board member shall announce publicly the member's individual decision as to whether to recommend clemency and shall sign the member's name with

1 the member's written recommendation and reasons for that  
2 recommendation.

3 (c) The Board of Pardons and Paroles shall adopt rules as  
4 necessary to implement the requirements of this article.

5 SECTION 12.04. (a) The changes in law made by this article  
6 apply only to a consideration by the Board of Pardons and Paroles  
7 regarding a clemency matter in a capital case that occurs on or  
8 after the effective date of this article.

9 (b) The Board of Pardons and Paroles shall adopt the rules  
10 required by Subsection (c), Article 48.011, Code of Criminal  
11 Procedure, as added by this article, not later than October 1, 2003.

12 ARTICLE 13. CERTAIN AGREEMENTS OF THE

13 TEXAS DEPARTMENT OF TRANSPORTATION

14 SECTION 13.01. Subchapter C, Chapter 201, Transportation  
15 Code, is amended by adding Section 201.1055 to read as follows:

16 Sec. 201.1055. AGREEMENTS WITH PRIVATE ENTITIES.  
17 Notwithstanding any other law, including Subchapter A, Chapter  
18 2254, Government Code, Chapters 2165, 2166, and 2167, Government  
19 Code, and Sections 202.052, 202.053, 203.051, 203.052, and 223.001  
20 of this code, the department and a private entity that offers the  
21 best value to the state may enter into an agreement that includes:

22 (1) both design and construction of a district office  
23 headquarters facility located in a county with a population of 3.3  
24 million or more;

25 (2) a lease of department-owned real property in a  
26 district that includes a county with a population of 3.3 million or  
27 more to the private entity;

(3) a provision authorizing the private entity to construct and retain ownership of a building on property leased to the entity under Subdivision (2); and

(4) a provision under which the department agrees to enter into an agreement to lease with an option or options to purchase a building constructed on property leased to the entity under Subdivision (2).

ARTICLE 14. ORGANIZATION OF CERTAIN STATE AGENCIES; TRANSFER OF  
CERTAIN FUNCTIONS

SECTION 14.01. Section 322.003, Government Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) A majority of the members of the board from each house constitutes a quorum to transact business. If a quorum is present, the board may act on any matter that is within its jurisdiction by a majority vote, except as provided by Section 322.004(a).

(b) The board shall meet as often as necessary to perform its duties. Meetings may be held at any time at the request ~~[at the call]~~ of the chairman or vice-chairman or on written petition of a majority of the members of the board from each house.

(d) For purposes of this section, the lieutenant governor is  
considered to be a member of the board from the senate.

SECTION 14.02. Subsection (a), Section 322.004, Government Code, is amended to read as follows:

(a) The board shall appoint a director to serve at the pleasure of the board. The appointment of the director must be approved by a majority vote of the members of the board from each

1 house of the legislature. For purposes of this subsection, the  
2 lieutenant governor is considered to be a member of the board from  
3 the senate. The director is accountable only to the board.

4 SECTION 14.03. Sections 322.001 through 322.014,  
5 Government Code, are designated as Subchapter A, Chapter 322,  
6 Government Code, and a heading to that subchapter is added to read  
7 as follows:

8 SUBCHAPTER A. GENERAL PROVISIONS

9 SECTION 14.04. Subchapter A, Chapter 322, Government Code,  
10 as designated by this Act, is amended by adding Sections 322.015  
11 through 322.020 to read as follows:

12 Sec. 322.015. REVIEW OF INTERSCHOLASTIC COMPETITION. The  
13 board may periodically review and analyze the effectiveness and  
14 efficiency of the policies, management, fiscal affairs, and  
15 operations of an organization that is a component or part of a state  
16 agency or institution and that sanctions or conducts  
17 interscholastic competition. The board shall report the findings  
18 to the governor and the legislature. The legislature may consider  
19 the board's reports in connection with the legislative  
20 appropriations process.

21 Sec. 322.016. PERFORMANCE REVIEW OF SCHOOL DISTRICTS.  
22 (a) The board may periodically review the effectiveness and  
23 efficiency of the operations of school districts. A review of a  
24 school district may be initiated by the board at its discretion or  
25 on the request of the school district. A review may be initiated by  
26 a school district only by resolution adopted by a majority of the  
27 members of the board of trustees of the district.

1       (b) If a review is initiated on the request of the school  
2 district, the district shall pay 25 percent of the cost incurred in  
3 conducting the review.

4       (c) The board shall:

5           (1) prepare a report showing the results of each  
6 review conducted under this section;

7           (2) file the report with the school district, the  
8 governor, the lieutenant governor, the speaker of the house of  
9 representatives, the chairs of the standing committees of the  
10 senate and the house of representatives with jurisdiction over  
11 public education, and the commissioner of education; and

12           (3) make the entire report and a summary of the report  
13 available to the public on the Internet.

14       Sec. 322.017. EFFICIENCY REVIEW OF STATE AGENCIES.

15       (a) The board periodically may review and analyze the  
16 effectiveness and efficiency of the policies, management, fiscal  
17 affairs, and operations of state agencies.

18       (b) The board shall report the findings of the review and  
19 analysis to the governor and the legislature.

20       (c) The legislature may consider the board's reports in  
21 connection with the legislative appropriations process.

22       (d) In this section, "state agency" has the meaning assigned  
23 by Section 2056.001.

24       Sec. 322.018. RECORDS MANAGEMENT REVIEW. (a) The board  
25 may periodically review and analyze the effectiveness and  
26 efficiency of the policies and management of a state governmental  
27 committee or state agency that is involved in:

1           (1) analyzing and recommending improvements to the  
2 state's system of records management; and

3           (2) preserving the essential records of this state,  
4 including records relating to financial management information.

5           (b) In this section, "state agency" has the meaning assigned  
6 by Section 2056.001.

7           Sec. 322.019. CERTAIN DUTIES. The director shall create a  
8 policy council division to perform policy analysis and related  
9 empirical analysis and research at the direction of the board  
10 regarding issues and matters identified by the board that may  
11 affect state revenue or appropriations or that may be the subject of  
12 legislation or proposed amendments to the Texas Constitution.

13           Sec. 322.020. AGENCY COOPERATION. Each state agency in any  
14 branch of state government shall cooperate with the board in  
15 providing the board with the information the board requires to  
16 perform its duties under Section 322.019.

17           SECTION 14.05. Chapter 322, Government Code, is amended by  
18 adding Subchapter B to read as follows:

19           SUBCHAPTER B. WORKERS' COMPENSATION RESEARCH

20           Sec. 322.051. WORKERS' COMPENSATION RESEARCH DUTIES OF  
21 BOARD. (a) The board shall conduct professional studies and  
22 research related to:

- 23                   (1) the delivery of benefits;  
24                   (2) litigation and controversy related to workers'  
25 compensation;  
26                   (3) insurance rates and rate-making procedures;  
27                   (4) rehabilitation and reemployment of injured

1 workers;

2 (5) workplace health and safety issues;

3 (6) the quality and cost of medical benefits; and

4 (7) other matters relevant to the cost, quality, and  
5 operational effectiveness of the workers' compensation system.

6 (b) In addition to the studies and research conducted under  
7 Subsection (a), the board shall conduct studies and research  
8 related to drugs in the workplace, giving priority to drug abuse in  
9 public and private establishments in which drug abuse could result  
10 in serious consequences to the public. The studies and research  
11 must include a survey designed to identify future needs and current  
12 efforts of employers to counteract drug abuse and its effects in the  
13 workplace.

14 (c) The board shall identify, collect, maintain, and  
15 analyze the key information required to assess the operational  
16 effectiveness of the workers' compensation system. The board shall  
17 provide the information obtained under this subsection to the  
18 governor and the legislature on a quarterly basis.

19 (d) The board may apply for and spend grant funds to  
20 implement this chapter.

21 Sec. 322.052. FUNDING; MAINTENANCE TAX. (a) The board's  
22 duties under this subchapter are funded through the assessment of a  
23 maintenance tax collected annually from all insurance carriers, and  
24 from self-insurance groups that hold certificates of approval under  
25 Chapter 407A, Labor Code, except governmental entities.

26 (b) The board shall set the rate of the maintenance tax  
27 based on the expenditures authorized and the receipts anticipated

in legislative appropriations. The tax rate for an insurance company may not exceed one-tenth of one percent of the correctly reported gross workers' compensation insurance premiums. The tax rate for a certified self-insurer may not exceed one-tenth of one percent of the total tax base of all certified self-insurers, as computed under Section 407.103(b), Labor Code. The tax rate for a self-insurance group described by Subsection (a) may not exceed one-tenth of one percent of the group's gross premium for the group's retention, excluding premium collected by the group for excess insurance.

(c) The tax imposed under Subsection (a) is in addition to all other taxes imposed on those insurance carriers for workers' compensation purposes.

(d) The tax on insurance companies and on self-insurance groups described by Subsection (a) shall be assessed, collected, and paid in the same manner and at the same time as the maintenance tax established for the support of the Texas Department of Insurance under Article 5.68, Insurance Code. The tax on certified self-insurers shall be assessed, collected, and paid in the same manner and at the same time as the self-insurer maintenance tax collected under Section 407.104, Labor Code.

(e) Amounts received under this section shall be deposited in the state treasury in accordance with Article 5.68(e), Insurance Code, to be used:

(1) for the operation of the board's duties under this subchapter; and

(2) to reimburse the general revenue fund in



1 accordance with Article 4.19, Insurance Code.

2 (f) Section 403.095 does not apply to the special account  
3 established under this section.

4 Sec. 322.053. COORDINATION WITH OTHER STATE AGENCIES;  
5 CONFIDENTIALITY. (a) As required to fulfill the board's  
6 objectives under this subchapter, the board is entitled to access  
7 to the files and records of:

8 (1) the Texas Workers' Compensation Commission;

9 (2) the Texas Workforce Commission;

10 (3) the Texas Department of Human Services;

11 (4) the State Office of Risk Management; and

12 (5) other state agencies.

13 (b) A state agency shall assist and cooperate in providing  
14 the information to the board.

15 (c) Information that is confidential under state law is  
16 accessible to the board under rules of confidentiality and remains  
17 confidential.

18 (d) The identity of an individual or entity selected to  
19 participate in a board survey or who participates in such a survey  
20 is confidential and is not subject to public disclosure under  
21 Chapter 552.

22 SECTION 14.06. Subsection (b), Section 323.001, Government  
23 Code, as amended by Senate Bill No. 1418, Acts of the 78th  
24 Legislature, Regular Session, 2003, is amended to read as follows:

25 (b) The council consists of:

26 (1) the lieutenant governor;

27 (2) the speaker of the house of representatives;

1           (3) the chairman of the house administration  
2 committee;

3           (4) five senators from various areas of the state  
4 appointed by the president of the senate; and

5           (5) four [~~nine~~] other members of the house of  
6 representatives from various areas of the state appointed by the  
7 speaker.

8           SECTION 14.07. Subsection (c), Section 323.001, Government  
9 Code, is amended to read as follows:

10          (c) The speaker of the house of representatives [~~lieutenant~~  
11 ~~governor~~] is the chairman of the council and the lieutenant  
12 governor [~~speaker~~] is the vice-chairman.

13          SECTION 14.08. Chapter 323, Government Code, is amended by  
14 adding Section 323.002 to read as follows:

15          Sec. 323.002. EXECUTIVE DIRECTOR. The council shall  
16 appoint an executive director to serve at the will of the council.  
17 The appointment of the executive director must be approved by a  
18 majority vote of the members of the council from each house of the  
19 legislature. For purposes of this section, the lieutenant governor  
20 is considered to be a member of the council from the senate.

21          SECTION 14.09. Subsections (a) and (b), Section 323.003,  
22 Government Code, are amended to read as follows:

23          (a) The council shall meet as often as necessary to perform  
24 its duties. Meetings may be held at any time at the request of the  
25 chairman or vice-chairman.

26          (b) A majority of the [~~Twelve~~] members of the council from  
27 each house of the legislature constitutes [~~including the chairman~~

1 ~~and vice-chairman constitute]~~ a quorum. If a quorum is present, the  
 2 council may act on any matter that is within its jurisdiction by a  
 3 majority vote, except as provided by Section 323.002. For purposes  
 4 of this subsection, the lieutenant governor is considered to be a  
 5 member of the council from the senate.

6 SECTION 14.10. Subsections (a), (d), and (j), Section  
 7 325.003, Government Code, are amended to read as follows:

8 (a) The Sunset Advisory Commission consists of five ~~[four]~~  
 9 members of the senate and one public member appointed by the  
 10 lieutenant governor and five ~~[four]~~ members of the house of  
 11 representatives and one public member appointed by the speaker of  
 12 the house. Each appointing authority may designate himself as one  
 13 of the legislative appointees.

14 (d) Legislative members serve four-year terms, with terms  
 15 staggered so that the terms of as near to one-half of the  
 16 legislative members appointed by the lieutenant governor as  
 17 possible and the terms of as near to one-half of the legislative  
 18 members appointed by the speaker as possible expire September 1 of  
 19 each odd-numbered year. If the lieutenant governor or the speaker  
 20 serves on the commission, he continues to serve until resignation  
 21 from the commission or until he ceases to hold the office. Public  
 22 members serve two-year terms expiring September 1 of each  
 23 odd-numbered year.

24 (j) Seven ~~[Six]~~ members of the commission constitute a  
 25 quorum. A final action or recommendation may not be made unless  
 26 approved by a record vote of a majority of the commission's full  
 27 membership.

SECTION 14.11. The following laws are repealed:

- (1) Section 403.020, Government Code;
- (2) Section 403.0205, Government Code;
- (3) Section 403.022, Government Code;
- (4) Section 403.024, Government Code;
- (5) Chapter 404, Labor Code; and
- (6) Subsection (f), Section 413.021, Labor Code.

SECTION 14.12. If, on the effective date of this Act, more than four members of the house of representatives appointed under Subdivision (5), Subsection (b), Section 323.001, Government Code, are serving as members of the Texas Legislative Council:

(1) those members' terms on the council expire on the effective date of this Act; and

(2) the speaker of the house of representatives, as soon as possible after the effective date of this Act, shall appoint four members of the house to serve as members of the Texas Legislative Council under Subdivision (5), Subsection (b), Section 323.001, Government Code, as amended by this Act.

SECTION 14.13. The lieutenant governor and the speaker of the house of representatives, as soon as possible after the effective date of this Act, shall appoint a member of the senate or the house of representatives, respectively, to serve initial terms on the Sunset Advisory Commission under Section 325.003, Government Code, as amended by this Act, expiring September 1, 2005.

SECTION 14.14. On November 1, 2003:

(1) all records and other property of the comptroller of public accounts that relate to a review of interscholastic

1 competition, a performance review of school districts, an  
2 efficiency review of a state agency, or a records management review  
3 are transferred to the Legislative Budget Board;

4 (2) all unexpended and unobligated appropriations of  
5 the comptroller of public accounts relating to the comptroller's  
6 review of interscholastic competition, performance review of  
7 school districts, efficiency review of a state agency, or records  
8 management review are transferred to the Legislative Budget Board;

9 (3) all employees of the comptroller of public  
10 accounts whose primary functions relate to the review of  
11 interscholastic competition, performance review of school  
12 districts, efficiency review of state agencies, or records  
13 management review become employees of the Legislative Budget Board;  
14 and

15 (4) any reference in law to the comptroller of public  
16 accounts that relates to the review of interscholastic competition,  
17 performance review of school districts, efficiency review of state  
18 agencies, or records management review means the Legislative Budget  
19 Board.

20 SECTION 14.15. The Research and Oversight Council on  
21 Workers' Compensation, including the council's board of directors,  
22 is abolished on the effective date of this Act. All state records  
23 and other property and unexpended and unobligated appropriations of  
24 the council on the effective date of this Act are transferred to the  
25 Legislative Budget Board. All employees of the Research and  
26 Oversight Council on Workers' Compensation become employees of the  
27 Legislative Budget Board on the effective date of this Act. Any

1 reference in law to the Research and Oversight Council on Workers'  
2 Compensation, the council's board of directors, the Texas Workers'  
3 Compensation Research Center, or the research center's board means  
4 the Legislative Budget Board.

5 ARTICLE 15. UNCLAIMED PROPERTY

6 SECTION 15.01. Subsection (a), Section 72.101, Property  
7 Code, is amended to read as follows:

8 (a) Except as provided by this section and Sections 72.1015  
9 and [Section] 72.102, personal property is presumed abandoned if,  
10 for longer than three years:

11 (1) the existence and location of the owner of the  
12 property is unknown to the holder of the property; and

13 (2) according to the knowledge and records of the  
14 holder of the property, a claim to the property has not been  
15 asserted or an act of ownership of the property has not been  
16 exercised.

17 SECTION 15.02. Subchapter B, Chapter 72, Property Code, is  
18 amended by adding Section 72.1015 to read as follows:

19 Sec. 72.1015. UNCLAIMED WAGES. (a) In this section,  
20 "wages" has the meaning assigned by Section 61.001, Labor Code.

21 (b) An amount of unclaimed wages is presumed abandoned if,  
22 for longer than one year:

23 (1) the existence and location of the person to whom  
24 the wages are owed is unknown to the holder of the wages; and

25 (2) according to the knowledge and records of the  
26 holder of the wages, a claim to the wages has not been asserted or an  
27 act of ownership of the wages has not been exercised.

1           SECTION 15.03. Subsection (a), Section 74.001, Property  
2 Code, as amended by House Bill No. 826, Acts of the 78th  
3 Legislature, Regular Session, 2003, is amended to read as follows:

4           (a) Except as provided by Subsection (b), this chapter  
5 applies to a holder of property that is presumed abandoned under[+]

6           ~~[(1)] Chapter 72, Chapter 73, or Chapter 75 [of this~~  
7 ~~code, or~~

8           ~~[(2) Subchapter G, Chapter 61, Labor Code].~~

9           SECTION 15.04. Subsection (a), Section 74.101, Property  
10 Code, as amended by House Bill No. 826, Acts of the 78th  
11 Legislature, Regular Session, 2003, is amended to read as follows:

12           (a) Each holder who on June 30 holds property that is  
13 presumed abandoned under Chapter 72, 73, or 75 of this code or  
14 under~~[,]~~ Chapter 154, Finance Code, ~~[or Subchapter G, Chapter 61,~~  
15 ~~Labor Code,]~~ shall file a report of that property on or before the  
16 following November 1. The comptroller may require the report to be  
17 in a particular format, including a format that can be read by a  
18 computer.

19           SECTION 15.05. Subsection (a), Section 74.301, Property  
20 Code, as amended by House Bill No. 826, Acts of the 78th  
21 Legislature, Regular Session, 2003, is amended to read as follows:

22           (a) Except as provided by Subsection (c), each holder who on  
23 June 30 holds property that is presumed abandoned under Chapter 72,  
24 73, or 75 ~~[of this code or Subchapter G, Chapter 61, Labor Code,]~~  
25 shall deliver the property to the comptroller on or before the  
26 following November 1 accompanied by the report required to be filed  
27 under Section 74.101.

1           SECTION 15.06. Subchapter G, Chapter 61, Labor Code, as  
2 added by House Bill No. 826, Acts of the 78th Legislature, Regular  
3 Session, 2003, is repealed.

4           SECTION 15.07. This article takes effect September 1, 2003,  
5 if this Act receives a vote of two-thirds of all the members elected  
6 to each house, as provided by Section 39, Article III, Texas  
7 Constitution. If this Act does not receive the vote necessary to  
8 take effect on that date, this article takes effect November 1,  
9 2003.

10       ARTICLE 16. STATE PUBLICATIONS MAINTAINED BY THE TEXAS STATE  
11                               LIBRARY AND ARCHIVES COMMISSION

12       SECTION 16.01. Subdivisions (2) and (4), Section 441.101,  
13 Government Code, are amended to read as follows:

14           (2) "Depository library" means the Texas State  
15 Library, the Legislative Reference Library, the Library of  
16 Congress, the Center for Research Libraries, or any other library  
17 that the commission designates as a site for retaining and allowing  
18 public access to state publications ~~[depository library]~~.

19           (4) "State publication":

20           (A) means information in any format, including  
21 materials in print or in an electronic format, that:

22           (i) is produced by the authority of or at  
23 the total or partial expense of a state agency or is required to be  
24 distributed under law by the agency; and

25           (ii) is publicly distributed outside the  
26 agency by or for the agency; and

27           (B) does not include information the



1 distribution of which is limited to:

2 (i) contractors with or grantees of the  
3 agency;

4 (ii) persons within the agency or within  
5 other government agencies; or

6 (iii) members of the public under a request  
7 made under the open records law, Chapter 552.

8 SECTION 16.02. Subsection (c), Section 441.102, Government  
9 Code, is amended to read as follows:

10 (c) The commission shall establish and maintain a system,  
11 named the "Texas Records and Information Locator," or "TRAIL," to  
12 allow electronic access, including access through the Internet, at  
13 the Texas State Library and other depository libraries to state  
14 publications in an electronic format that have been made available  
15 to the public by or on behalf of a state agency.

16 SECTION 16.03. Section 441.103, Government Code, is amended  
17 by amending Subsections (a) and (b) and adding Subsections (f),  
18 (g), and (h) to read as follows:

19 (a) A state agency shall designate one or more staff persons  
20 as agency publications liaisons [~~contact persons~~] and shall notify  
21 the Texas State Library of those persons' identities. A  
22 publications liaison [~~contact person~~] shall maintain a record of  
23 the agency's state publications and shall furnish to the Texas  
24 State Library a list of the agency's new state publications as they  
25 become available.

26 (b) A state agency shall furnish copies of its printed state  
27 publications to the Texas State Library in the number specified by

commission rules. On the printing of or awarding of a contract for the printing of a publication, a state agency shall arrange for the required number of copies to be deposited with the Texas State Library. The commission may not require more than 75 copies of a printed state publication.

(f) A state agency shall make its printed state publications accessible from the state agency's website in an electronic format. If the state agency does not have a website, the agency shall deposit the electronic source file for each printed state publication in the manner prescribed by commission rules.

(g) A state agency shall include, for any state publication in electronic format, regardless of its availability through the Internet, identifying and descriptive information about the state publication as specified by commission and Department of Information Resources rules.

(h) If an electronic state publication is not printed or available from the state agency's website, the state agency shall furnish the Texas State Library copies in a manner prescribed by commission rules. The commission may not require more than 75 copies of the publication.

SECTION 16.04. Section 441.104, Government Code, is amended to read as follows:

Sec. 441.104. DUTIES OF TEXAS STATE LIBRARY. The Texas State Library shall:

(1) acquire, organize, ~~and~~ retain, and provide access to state publications;

(2) collect state publications and distribute them to

1 depository libraries;

2 (3) establish a ~~[microform]~~ program for the  
3 preservation and management of state publications and make  
4 available state publications in alternative formats ~~[microform]~~ to  
5 depository libraries and other libraries at a reasonable cost;

6 (4) periodically issue a list of all state  
7 publications that it has received in print or storage media to all  
8 depository libraries and other libraries on request;

9 (5) catalog, classify, and index all state  
10 publications that it receives and distribute the cataloging,  
11 classification, and indexing information to depository libraries  
12 and to other libraries on request;

13 (6) ensure that state publications are fully  
14 represented in regional and national automated library networks;

15 (7) index all state publications that are available on  
16 the Internet ~~[in an electronic format]~~ and make the index available  
17 on the Internet ~~[in an electronic format]~~; and

18 (8) ~~[provide on-line access to state publications that~~  
19 ~~can be accessed on-line, and~~

20 ~~[(9)]~~ provide other depository libraries appropriate  
21 access, at no charge, to state publications available in an  
22 electronic format.

23 SECTION 16.05. Section 441.106, Government Code, is amended  
24 to read as follows:

25 Sec. 441.106. PAYMENT FOR PRINTING OF STATE PUBLICATIONS.  
26 If a state agency's printing is done by contract, an account for the  
27 printing may not be approved and a warrant may not be issued unless

1 the agency first furnishes to the Texas Building and Procurement  
2 ~~[State Purchasing and General Services]~~ Commission a receipt from  
3 the state librarian for the publication or a written waiver from the  
4 state librarian exempting the publication from this subchapter.

5 ARTICLE 17. TRANSFER AND USE OF CERTAIN REAL PROPERTY

6 SECTION 17.01. Section 4, Chapter 38, General Laws, Acts of  
7 the 35th Legislature, Regular Session, 1917, is amended to read as  
8 follows:

9 Sec. 4: If any portion greater than one-tenth of one acre of  
10 said property be used by said city for any purpose except public  
11 park and recreational purposes and purposes incident thereto, title  
12 to said property shall revert to the State of Texas free from all  
13 claims of said city of Austin. Sections 253.001(b) and (d), Local  
14 Government Code, Chapter 272, Local Government Code, Chapter 26,  
15 Parks and Wildlife Code, any similar charter provision of said  
16 city, and any use restriction imposed by this Act do not apply to  
17 the sale, conveyance, or lease of a portion of said property to an  
18 owner of an interest in adjoining property if the portion of said  
19 property is less than one-tenth of one acre. A lease, sale, or  
20 conveyance of any interest in land described by Section 1 or 2 of  
21 this Act shall be submitted to the commissioner of the General Land  
22 Office for review and comment before the completion of the  
23 transaction. If more than one portion of said property is used for  
24 a purpose other than a purpose described by Section 2 of this Act,  
25 the aggregate of those portions of said property may not exceed  
26 one-tenth of one acre.

ARTICLE 18. CERTAIN GOVERNMENTAL CONTRACTS TO BE PERFORMED  
IN NONATTAINMENT AREAS FOR NATIONAL AMBIENT AIR QUALITY STANDARDS

SECTION 18.01. Subsection (a), Section 2155.451, Government Code, as added by Section 19, House Bill No. 1365, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

(a) This section applies only to a contract to be performed, wholly or partly, in a nonattainment area or in an affected county, as those terms are ~~[that term is]~~ defined by Section 386.001, Health and Safety Code.

SECTION 18.02. Subsection (b), Section 271.907, Local Government Code, as added by Section 20, House Bill No. 1365, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

(b) This section applies only to a contract to be performed, wholly or partly, in a nonattainment area or in an affected county, as those terms are ~~[that term is]~~ defined by Section 386.001, Health and Safety Code.

SECTION 18.03. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect on the 91st day after the last day of the legislative session.

ARTICLE 19. TEXAS COUNTY AND DISTRICT RETIREMENT SYSTEM ASSETS

SECTION 19.01. Subsection (a), Section 845.301, Government Code, as amended by House Bill No. 2240, Acts of the 78th

Legislature, Regular Session, 2003, is amended to read as follows:

(a) The assets of the retirement system shall be invested and reinvested without distinction as to their source in accordance with Section 67, Article XVI, Texas Constitution. For purposes of the investment authority of the board of trustees under Section 67, Article XVI, Texas Constitution, "securities" means any investment instrument within the meaning of the term as defined by Section 4, The Securities Act (Article 581-4, Vernon's Texas Civil Statutes), 15 U.S.C. Section 77b(a)(1), or 15 U.S.C. Section 78c(a)(10). Investment decisions are subject to the standard provided in the Texas Trust Code by Section 117.004(b) [~~Sections 117.004(a)-(c)~~], Property Code.

SECTION 19.02. This article takes effect January 1, 2004.

ARTICLE 20. PARTICIPATION OF CERTAIN GOVERNMENTAL RETIREES  
IN CERTAIN GROUP BENEFIT PLANS

SECTION 20.01. Section 1551.102, Insurance Code, is amended by adding Subsection (i) to read as follows:

(i) Subject to Section 1551.323, an individual is eligible to participate in the group benefits program as an annuitant if the individual:

(1) served in a position for which the individual was eligible to participate in the group benefits program under Section 1551.101 on or before August 31, 2003; and

(2) at the time of retirement meets the requirements for eligibility for participation in the program as an annuitant as those requirements existed on August 31, 2003.

SECTION 20.02. Section 1551.111, Insurance Code, is amended

1 by adding Subsection (e) to read as follows:

2 (e) An individual is eligible to participate in the group  
3 benefits program as an annuitant as described under this section if  
4 the individual:

5 (1) served as an officer or employee as described by  
6 Subsection (b)(1) on or before August 31, 2003; and

7 (2) at the time of retirement meets the requirements  
8 for eligibility for participation in the program as an annuitant as  
9 those requirements existed on August 31, 2003.

10 SECTION 20.03. Section 1551.112, Insurance Code, is amended  
11 by adding Subsection (c) to read as follows:

12 (c) An individual is eligible to participate in the group  
13 benefits program as an annuitant as described under this section if  
14 the individual:

15 (1) served in a position described by Subsection (a)  
16 on or before August 31, 2003; and

17 (2) at the time of retirement meets the requirements  
18 for eligibility for participation in the program as an annuitant as  
19 those requirements existed on August 31, 2003.

20 SECTION 20.04. Subchapter G, Chapter 1551, Insurance Code,  
21 is amended by adding Section 1551.323 to read as follows:

22 Sec. 1551.323. COST OF CERTAIN ANNUITANTS. (a) An  
23 annuitant eligible to participate under Section 1551.102(i) may be  
24 required to pay the total cost attributable to the participation of  
25 that individual and the dependents of that individual until the  
26 date the individual is 65 years of age. If the General  
27 Appropriations Act or other similar legislation addresses the

1 payment of these costs, these costs shall be paid in the manner  
2 specified by that legislation.

3 (b) This section applies only to an individual who is  
4 eligible to participate as an annuitant under Section 1551.102(i)  
5 and who is not eligible to participate under another provision of  
6 Section 1551.102.

7 SECTION 20.05. Section 1575.004, Insurance Code, as amended  
8 by Senate Bill No. 1369, House Bill No. 3459, and House Bill No.  
9 3507, Acts of the 78th Legislature, Regular Session, 2003, is  
10 reenacted and amended to read as follows:

11 Sec. 1575.004. DEFINITION OF RETIREE. In this chapter,  
12 "retiree" means:

13 (1) an individual not eligible for coverage under a  
14 plan provided under Chapter 1551 or 1601 who:

15 (A) is at least 65 years of age and has taken a  
16 service retirement under the Teacher Retirement System of Texas  
17 with at least 10 years of service credit in the system for actual  
18 service in public schools in this state; ~~or~~

19 (B) was employed in actual service in public  
20 schools in this state during or before the 2002-2003 school year, is  
21 at least 55 years of age, and has taken a service retirement under  
22 the Teacher Retirement System of Texas with at least 10 years of  
23 service credit in the system for actual service in public schools in  
24 this state; or

25 (C) has taken a service retirement under the  
26 Teacher Retirement System of Texas and who has at least 10 years of  
27 service credit for actual public service in the public schools in



1 this state or has at least five years of service credit for actual  
2 public service in the public schools in this state and has five  
3 years of military service credited in the Teacher Retirement System  
4 of Texas, and the sum of the individual's age and amount of service  
5 credit earned for service in the public schools of this state equals  
6 or exceeds the number 80; or

7 (2) an individual who:

8 (A) has taken a disability retirement under the  
9 Teacher Retirement System of Texas; and

10 (B) is entitled to receive monthly benefits from  
11 the Teacher Retirement System of Texas.

12 SECTION 20.06. Section 1575.211, Insurance Code, as added  
13 by Senate Bill No. 1369 and House Bill No. 3459, Acts of the 78th  
14 Legislature, Regular Session, 2003, is amended by adding Subsection  
15 (c) to read as follows:

16 (c) A retiree eligible to participate under Section  
17 1575.004(1)(B) may be required to pay the total cost attributable  
18 to the participation of that individual and the dependents of that  
19 individual until the date the individual is 65 years of age. The  
20 General Appropriations Act or other similar legislation may specify  
21 a different allocation of total costs for retirees eligible to  
22 participate under Section 1575.004(1)(B) and the dependents of  
23 those retirees. This subsection applies only to an individual who  
24 is eligible to participate as an annuitant under Section  
25 1575.004(1)(B) and who is not eligible to participate under another  
26 provision of Section 1575.004.

27 SECTION 20.07. This article takes effect September 1, 2003,

1 if this Act receives a vote of two-thirds of all the members elected  
2 to each house, as provided by Section 39, Article III, Texas  
3 Constitution. If this Act does not receive the vote necessary for  
4 effect on that date, this article takes effect November 1, 2003.

5 ARTICLE 21. AUDIT OF TAX SETTLEMENT

6 SECTION 21.01. Chapter 321, Government Code, is amended by  
7 adding Section 321.0138 to read as follows:

8 Sec. 321.0138. AUDIT OF STATE TAX SETTLEMENT. (a) This  
9 section applies to a settlement of:

10 (1) a claim for a tax, penalty, or interest imposed by  
11 Title 2, Tax Code, if the amount the taxpayer is required to pay  
12 under the settlement is more than \$10,000 less than the amount the  
13 comptroller claimed the taxpayer owed before the date of the  
14 settlement;

15 (2) a claim for a refund or credit of a tax, penalty,  
16 or interest imposed by Title 2, Tax Code, if the amount of the  
17 refund or credit under the settlement exceeds \$10,000; or

18 (3) a taxpayer suit under Chapter 112, Tax Code, in  
19 which the amount to be paid to or refunded or credited to the  
20 taxpayer under the settlement exceeds \$10,000.

21 (b) The state auditor may audit a tax settlement to which  
22 this section applies. In determining whether this section applies  
23 and in conducting the audit, the state auditor is entitled to access  
24 to information related to the settlement to the same extent the  
25 state auditor would be entitled under Section 321.013 if the  
26 information were in a department or entity that is subject to audit.

27 (c) Notwithstanding any other law, including Sections

1 111.006, 151.027, and 171.206, Tax Code, the legislative audit  
2 committee may release the name of a taxpayer that is subject to a  
3 settlement to which this section applies and the amount of the  
4 relief the taxpayer received as a result of the settlement. The  
5 legislative audit committee may not release any other information  
6 made confidential by those laws or other law.

7 ARTICLE 22. ENERGY AND WATER CONSERVATION BY STATE AGENCIES

8 SECTION 22.01. Chapter 447, Government Code, is amended by  
9 adding Sections 447.010 and 447.011 to read as follows:

10 Sec. 447.010. FUEL SAVINGS FOR STATE AGENCIES. (a) In  
11 this section and in Section 447.011:

12 (1) "Cost-effective" means resulting in fuel  
13 consumption reduction with a projected savings in fuel cost over a  
14 one-year period that exceeds the cost of purchasing and using a  
15 technology.

16 (2) "Fuel-saving technology" means a:

17 (A) device containing no lead metal that is  
18 installed on a motor vehicle or non-road diesel and that has been  
19 proven to reduce fuel consumption per mile or per hour of operation  
20 by at least five percent;

21 (B) fuel additive registered in accordance with  
22 40 C.F.R. Part 79 that contains no known mutagenic materials and  
23 that has been proven to reduce fuel consumption per mile or per hour  
24 of operation by at least five percent; or

25 (C) fuel registered in accordance with 40 C.F.R.  
26 Part 79 that contains no known mutagenic materials and that has been  
27 proven to reduce fuel consumption per mile or per hour of operation

1 by at least five percent.

2 (3) "Motor vehicle" and "non-road diesel" have the  
3 meanings assigned by Section 386.101, Health and Safety Code.

4 (4) "Proven fuel-saving technologies" means  
5 technologies shown to reduce fuel use by at least five percent in:

6 (A) a United States Environmental Protection  
7 Agency fuel economy test performed at a laboratory recognized by  
8 that agency and under federal test protocols;

9 (B) a fuel economy test performed in accordance  
10 with protocols and at testing laboratories or facilities recognized  
11 by the state energy conservation office, the Texas Commission on  
12 Environmental Quality, or the United States Environmental  
13 Protection Agency; or

14 (C) a field demonstration performed in  
15 accordance with Section 447.011.

16 (b) A state agency with 10 or more motor vehicles or  
17 non-road diesels shall reduce the total fuel consumption of the  
18 vehicles or diesels by at least five percent from fiscal year 2002  
19 consumption levels through the use of cost-effective fuel-saving  
20 technologies.

21 (c) A state agency may delay reducing fuel use as described  
22 in this section until a list of proven fuel-saving technologies is  
23 provided by the state energy conservation office as provided by  
24 Section 447.011.

25 (d) A state agency may not purchase or use as a fuel-saving  
26 technology a technology that:

27 (1) is known to increase engine emissions above the

1 levels established by the United States Environmental Protection  
2 Agency;

3 (2) may be reasonably concluded to degrade air quality  
4 or human health or to negatively impact the environment; or

5 (3) is known to negatively affect the manufacturer's  
6 warranty of a motor vehicle or non-road diesel.

7 (e) A state agency may purchase cost-effective fuel-saving  
8 technologies out of the agency's fuel budget.

9 (f) A state agency shall evaluate similar fuel-saving  
10 technologies competitively.

11 (g) A state agency may condition a purchase of a fuel-saving  
12 technology on the seller's agreement to refund the cost of the  
13 technology if the agency determines it to be ineffective at  
14 reducing fuel use by at least five percent before the 91st day after  
15 the date the technology is first used by the agency.

16 (h) A state agency may use a fuel-saving technology that the  
17 agency determines is cost-effective and may use a fuel-saving  
18 technology in applications that provide other benefits, including  
19 emissions reductions.

20 (i) A state agency may establish a program for agency  
21 employees voluntarily to:

22 (1) purchase fuel-saving technologies; and  
23 (2) document reductions in fuel savings and air  
24 emissions.

25 (j) A state agency shall report to the state energy  
26 conservation office annually, on a form provided by the office, on  
27 the state agency's efforts and progress under this section.

1       Sec. 447.011. FIELD DEMONSTRATIONS. (a) Under the  
2 direction of the state energy conservation office, the Texas  
3 Department of Transportation shall demonstrate the effectiveness  
4 of at least four fuel-saving technologies on a combined maximum of  
5 100 motor vehicles or non-road diesels in accordance with this  
6 section to determine the fuel-saving technologies that may  
7 cost-effectively reduce fuel consumption and save state revenue.

8       (b) The Texas Department of Transportation shall select  
9 varying ages and types of motor vehicles and non-road diesels to  
10 demonstrate the fuel-saving technologies and shall give a  
11 preference to high-use motor vehicles and non-road diesels in the  
12 selection.

13       (c) The Texas Department of Transportation shall  
14 demonstrate the performance of fuel-saving technologies by:

15               (1) assessing a technology's performance in the normal  
16 course of operations of motor vehicles or non-road diesels; and

17               (2) performing controlled field tests.

18       (d) In selecting the technologies to be evaluated, the state  
19 energy conservation office shall:

20               (1) consult with governmental and business  
21 organizations that are currently using fuel-saving technology;

22               (2) consider technologies that are proven fuel-saving  
23 technologies that have demonstrated fuel economy benefits of five  
24 percent or more in field tests or recorded use data of government  
25 organizations or businesses that operate fleets; and

26               (3) determine whether each technology selected has the  
27 potential to be cost-effective.

1       (e) A fuel-saving technology may be disqualified from being  
2 demonstrated or used if it is known to reduce engine performance,  
3 reduce the life of the engine, require additional maintenance  
4 expenses, or degrade air quality.

5       (f) The Texas Commission on Environmental Quality, The  
6 University of Texas Center for Transportation Research, the  
7 University of Houston Diesel Emissions Center, or another agency  
8 may be designated to assist with executing the demonstration,  
9 compiling the results, estimating the potential average fuel  
10 savings of the technologies in different applications, or preparing  
11 a final report.

12       (g) On completing the demonstration described by this  
13 section the state energy conservation office shall rank the  
14 fuel-saving technologies based on their fuel savings, other cost  
15 savings, and overall cost-effectiveness. The office shall:

16               (1) list recommended applications of the  
17 technologies;

18               (2) document other negative or positive effects; and

19               (3) prepare a concise report of these findings.

20       (h) The Texas Commission on Environmental Quality shall  
21 obtain information on any fuel-saving technology that appears to  
22 reduce particulate matter, oxides of nitrogen, carbon monoxide, or  
23 hydrocarbon emissions. The Texas Commission on Environmental  
24 Quality may use this information to fund the United States  
25 Environmental Protection Agency verification of a technology in  
26 accordance with Section 387.003, Health and Safety Code.

27       (i) The state energy conservation office shall provide the

1 report prepared under Subsection (g) to each state agency with 10 or  
2 more motor vehicles or non-road diesels and to the Legislative  
3 Budget Board.

4 (j) The demonstration and associated reports described by  
5 this section shall be completed not later than September 1, 2004.

6 (k) All results of a demonstration project under this  
7 section shall be made public on the state energy conservation  
8 office's Internet website.

9 (l) The state energy conservation office shall provide  
10 quarterly an updated list of all proven fuel-saving technologies on  
11 its Internet website.

12 (m) Money from the state highway fund may not be used for the  
13 purchase, installation, maintenance, or operation of the  
14 fuel-saving technologies being assessed or subjected to controlled  
15 field tests under this section. Repairs to state equipment  
16 resulting from demonstrations of fuel-saving technologies must be  
17 paid from the same funds used to implement this section.

18 SECTION 22.02. Chapter 2113, Government Code, is amended by  
19 adding Subchapter E to read as follows:

20 SUBCHAPTER E. RESTRICTIONS ON CAPITAL EXPENDITURES

21 Sec. 2113.301. PREFERENCE FOR FINANCING CERTAIN CAPITAL  
22 EXPENDITURES WITH MONEY GENERATED BY UTILITY COST SAVINGS CONTRACT.

23 (a) In this section:

24 (1) "State facility purpose" means a purpose related  
25 to:

26 (A) the maintenance of a state-owned or  
27 state-leased building or facility; or



1                   (B) a project as defined by Section 2166.001,  
2 including a project described by Section 2166.003.

3                   (2) "Utility cost savings contract" means a contract  
4 under Subchapter I, Chapter 2166, or other law that guarantees  
5 utility cost savings for energy conservation measures to reduce  
6 energy or water consumption or to reduce operating costs of  
7 governmental facilities.

8                   (b) Before a state agency may use appropriated money to make  
9 a capital expenditure for a state facility purpose, the state  
10 agency must determine whether the expenditure could be financed  
11 with money generated by a utility cost savings contract.

12                   (c) If it is practicable to do so, a state agency that is  
13 using appropriated money must finance a capital expenditure for a  
14 state facility purpose with money generated by a utility cost  
15 savings contract.

16                   (d) If it is not practicable for a state agency that is using  
17 appropriated money to finance a capital expenditure for a state  
18 facility purpose with money generated by a utility cost savings  
19 contract, the state agency must provide justification to the  
20 comptroller for the capital expenditure.

21                   (e) In determining under Subsection (b) whether a capital  
22 expenditure could be financed by a utility cost savings contract, a  
23 state agency must consider whether utility cost savings generated  
24 by any department of that agency could be a potential means of  
25 financing a capital expenditure for any department of that agency.  
26 Money generated by a utility cost savings in one department of a  
27 state agency may be used to finance capital expenditures for a state

1 facility purpose in any department of that agency.

2 (f) This section does not apply to an institution of higher  
3 education as defined by Section 61.003, Education Code.

4 (g) This section does not apply to a capital expenditure for  
5 a state facility purpose that requires expeditious action to:

6 (1) prevent a hazard to life, health, safety, welfare,  
7 or property; or

8 (2) avoid undue additional cost to the state.

9 (h) The Texas Building and Procurement Commission shall  
10 appoint a task force to develop design recommendations that are to  
11 be used for state facilities and that encourage rain harvesting and  
12 water recycling by state agencies using appropriated money to  
13 finance a capital expenditure for a state facility purpose.

14 ARTICLE 23. USE OF CATASTROPHE RESERVE TRUST FUND

15 SECTION 23.01. Subsection (i), Section 8, Article 21.49,  
16 Insurance Code, is amended by adding Subdivision (6) to read as  
17 follows:

18 (6) Each state fiscal year, beginning with fiscal year  
19 2004, the General Land Office may use from the investment income of  
20 the catastrophe reserve trust fund an amount equal to not more than  
21 \$1.5 million of the investment income of the prior fiscal year to  
22 provide funding for an annual mitigation plan to be developed and  
23 implemented each year by the commissioner of the General Land  
24 Office. From that amount and as part of that plan, the General Land  
25 Office may use in each fiscal year any portion of the funding for  
26 the removal of structures or hazards located seaward of the line of  
27 vegetation or state-owned submerged land. The General Land Office

1 shall not be entitled to any funding under this subsection if the  
2 corpus of the catastrophe reserve trust fund is less than \$200  
3 million.

4 ARTICLE 24. PROHIBITION OF ELIMINATION TOURNAMENTS

5 SECTION 24.01. Subdivision (6), Section 2052.002,  
6 Occupations Code, as amended by Senate Bill No. 279, Acts of the  
7 78th Legislature, Regular Session, 2003, is amended to read as  
8 follows:

9 (6) "Elimination tournament" means a competition or  
10 exhibition in which contestants or participants who have no  
11 professional experience participate in one or more matches by  
12 boxing, wrestling, kicking, or using martial arts techniques  
13 ~~[boxing contest in which elimination tournament contestants~~  
14 ~~compete in a series of matches until not more than one contestant~~  
15 ~~remains in any weight category]~~. The term does not include a boxing  
16 event described by Section 2052.110.

17 SECTION 24.02. Section 2052.101, Occupations Code, is  
18 amended to read as follows:

19 Sec. 2052.101. BOXING PROMOTER LICENSE. A person may not  
20 act as a boxing promoter ~~[or an elimination tournament boxing~~  
21 ~~promoter]~~ unless the person holds a license issued under this  
22 chapter.

23 SECTION 24.03. Section 2052.110, Occupations Code, as  
24 amended by Senate Bill No. 279, Acts of the 78th Legislature,  
25 Regular Session, 2003, is amended to read as follows:

26 Sec. 2052.110. LICENSE AND BONDING EXCEPTIONS. The  
27 licensing and bonding requirements of this subchapter do not apply

to:

(1) a boxing event in which the participants do not receive a money remuneration, purse, or prize for their performances or services if the event is promoted, conducted, or maintained by:

(A) an educational institution;

(B) a law enforcement organization;

(C) a Texas National Guard Unit; or

(D) an amateur athletic organization recognized by the executive director;

(2) an event conducted by a nonprofit amateur athletic association chartered under the law of this state that is~~including a membership club affiliated with the association located within this state and~~ recognized by the executive director, including a membership club affiliated with the association located within this state;

(3) an event conducted by a college, school, or university that is part of the institution's athletic program in which only students of different educational institutions participate;

(4) an event in which only members of a troop, battery, company, or unit of the Texas National Guard or a law enforcement agency participate; or

(5) an event conducted by an organization of the Olympic Games, the Paralympic Games, or the Pan-American Games.

SECTION 24.04. Subsection (a), Section 2052.151, Occupations Code, as amended by Senate Bill No. 279, Acts of the

1 78th Legislature, Regular Session, 2003, is amended to read as  
2 follows:

3 (a) A tax is imposed on a person who:

4 (1) conducts a boxing event [~~including an elimination~~  
5 ~~tournament,~~] in which a fee is charged for admission to the event;

6 (2) exhibits in this state a simultaneous telecast of  
7 a live, spontaneous, or current boxing event on a closed circuit  
8 telecast, in which a fee is charged for admission to the telecast;  
9 or

10 (3) conducts or sponsors an amateur boxing event,  
11 other than an event exempt from licensing under Section  
12 2052.110(2), (3), (4), or (5), in which a fee is charged for  
13 admission to the event.

14 SECTION 24.05. The heading of Subchapter E, Chapter 2052,  
15 Occupations Code, is amended to read as follows:

16 SUBCHAPTER E. [~~REGULATION OF~~] ELIMINATION TOURNAMENTS

17 SECTION 24.06. Section 2052.201, Occupations Code, is  
18 amended to read as follows:

19 Sec. 2052.201. ELIMINATION TOURNAMENTS PROHIBITED [~~GENERAL~~  
20 ~~RULES~~]. (a) An elimination tournament may not [~~only~~] be held in  
21 this state; provided, however, that this section does not preclude  
22 kickboxing, mixed martial arts, shoot wrestling/fighting, or  
23 Pancrase wrestling/fighting as regulated by this chapter or  
24 commission rules [~~conducted as a one-night or two-night event~~].

25 (b) Promoting an elimination tournament conducted in this  
26 state is a violation of this chapter.

27 (c) Participating in an elimination tournament conducted in

1 this state is a violation of this chapter [~~An elimination~~  
2 ~~tournament match consists of three rounds of not more than 90~~  
3 ~~seconds per round with an interval of at least one minute between~~  
4 ~~rounds.~~

5 ~~[(c) The standing eight-count and the three-knock-down~~  
6 ~~rules apply to an elimination tournament.~~

7 ~~[(d) An elimination tournament contestant must be randomly~~  
8 ~~matched with an opponent in the same weight category as the~~  
9 ~~contestant during the preliminary round of an elimination~~  
10 ~~tournament].~~

11 SECTION 24.07. Section 2052.251, Occupations Code, as  
12 amended by Senate Bill No. 279, Acts of the 78th Legislature,  
13 Regular Session, 2003, is amended to read as follows:

14 Sec. 2052.251. BOXING GLOVES. A boxing event contestant[~~7~~  
15 ~~other than an elimination tournament contestant under Subchapter~~  
16 ~~E7]~~ shall wear eight-ounce boxing gloves, unless the commission by  
17 rule requires or permits a contestant to wear heavier gloves.

18 SECTION 24.08. Subsection (a), Section 2052.252,  
19 Occupations Code, as amended by Senate Bill No. 279, Acts of the  
20 78th Legislature, Regular Session, 2003, is amended to read as  
21 follows:

22 (a) This section applies to an amateur boxing event, other  
23 than an event described by Section 2052.110(2), (3), (4), or (5) [~~or~~  
24 ~~an elimination tournament subject to Subchapter E7]~~ in which a fee  
25 is charged for admission to the event.

26 SECTION 24.09. Section 2052.303, Occupations Code, is  
27 amended to read as follows:

1           Sec. 2052.303. CIVIL PENALTY; INJUNCTION. (a) Except as  
2 provided by Subsection (b), a [A] court may assess a civil penalty  
3 against a person who violates this chapter or a rule adopted under  
4 this chapter. The amount of the penalty assessed under this  
5 subsection may not exceed \$1,000 for each violation.

6           (b) A court may assess a civil penalty against a person who  
7 violates Section 2052.201(b) or a rule adopted under that  
8 subsection. The amount of the penalty assessed under this  
9 subsection may not exceed \$50,000 for each violation.

10          (c) The attorney general or the department may file a civil  
11 suit to:

12               (1) assess and recover a civil penalty under  
13 Subsection (a) or (b); or

14               (2) enjoin a person who violates or threatens to  
15 violate this chapter or a rule adopted under this chapter from  
16 continuing the violation or threat.

17          (d) [~~(c)~~] Venue for a suit filed under Subsection (c) [~~(b)~~]  
18 is in a district court in Travis County.

19          (e) [~~(d)~~] A civil penalty assessed under this section shall  
20 be paid to this state.

21          SECTION 24.10. Section 2052.309, Occupations Code, is  
22 amended by amending Subsection (b) and adding Subsection (c) to  
23 read as follows:

24               (b) Except as provided by Subsection (c), an [An] offense  
25 under this section is a Class A misdemeanor.

26               (c) An offense based on a violation of Section 2052.201(b)  
27 or a rule adopted under that subsection is a second degree felony.

SECTION 24.11. The following sections of the Occupations Code are repealed:

(1) Subdivisions (3), (7), (8), (12), and (15), Section 2052.002;

(2) Section 2052.103;

(3) Section 2052.202;

(4) Section 2052.203;

(5) Section 2052.204;

(6) Section 2052.205;

(7) Section 2052.206; and

(8) Section 2052.207.

SECTION 24.12. This article takes effect September 1, 2003, if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary to take effect on that date, this article takes effect November 1, 2003.

#### ARTICLE 25. CONDEMNATION PROCEEDINGS

SECTION 25.01. Subchapter A, Chapter 25, Government Code, is amended by adding Section 25.0020 to read as follows:

Sec. 25.0020. CONDEMNATION PROCEEDINGS IN CERTAIN COUNTIES. (a) This section applies only to a county with a population of three million or more.

(b) Notwithstanding Section 25.1032 or any other law, a county civil court at law has concurrent jurisdiction with the district court of eminent domain proceedings, both statutory and inverse, regardless of the amount in controversy.



1        (c) Notwithstanding Section 21.013, Property Code, a party  
2 initiating a condemnation proceeding may file a petition with any  
3 clerk authorized to accept the petition for the district court.

4        (d) A condemnation proceeding shall be assigned by rotation  
5 to a court with jurisdiction to hear the proceeding.

6        (e) Notwithstanding Section 62.301, for a condemnation  
7 proceeding before a county civil court at law, a party may elect in  
8 a timely filed jury demand to have the proceeding tried before a  
9 jury of 12 persons.

10                    ARTICLE 26.    LEGISLATIVE INTENT

11        SECTION 26.01.    Chapter 322, Government Code, is amended by  
12 adding Section 322.015 to read as follows:

13        Sec. 322.015.    LETTERS OF LEGISLATIVE INTENT.    (a) The  
14 board may issue a letter to a state governmental entity clarifying  
15 or explaining meaning or legislative intent on matters relating to:

16                    (1)    the General Appropriations Act; or  
17                    (2)    another legislative enactment that makes an  
18 appropriation or qualifies, details, limits, or restricts an  
19 appropriation.

20        (b) A state governmental entity, in interpreting a  
21 provision of law described by Subsection (a), may rely on a letter  
22 of legislative intent issued by the board under this section.

23        SECTION 26.02.    Section 2001.032, Government Code, is  
24 amended to read as follows:

25        Sec. 2001.032.    LEGISLATIVE REVIEW    AND    NOTIFICATION.  
26 (a) In the process of developing new rules and before a state  
27 agency gives notice of its intention of adopting a rule under

1 Sections 2001.023 and 2001.024, the agency shall research the  
2 legislative history of the law and prepare a legislative history  
3 document on the bill or amendment that authorizes a state agency to  
4 adopt the rule. To effectively research and prepare a legislative  
5 history document, the state agency must:

6 (1) confirm the names of the primary author and  
7 sponsor of the legislation or amendment that authorizes the state  
8 agency to adopt the rule with the chief clerk of the house of  
9 representatives, the secretary of the senate, or an automated  
10 information system operated by the Texas Legislative Council or  
11 some other reliable information service;

12 (2) determine whether a statement or discussion of  
13 legislative intent was entered into the journals of the senate or  
14 house of representatives in connection with legislation that became  
15 law and that added, amended, or clearly affected the law under which  
16 the rule would be adopted;

17 (3) verify the standing of each legislative author and  
18 sponsor identified in Subdivision (1) as to their current  
19 membership in the legislature; and

20 (4) assemble the information gathered under  
21 Subdivisions (1), (2), and (3) into a legislative history document  
22 to be used by the state agency during the deliberative process of  
23 developing new rules.

24 (b) In this section, a reference to the law under which a  
25 rule is or would be adopted includes a reference to the law that  
26 authorizes a state agency to adopt the rule and to the law that the  
27 rule would implement or enforce.

1       (c) Before a state agency gives notice of its intention to  
2 adopt a rule under Sections 2001.023 and 2001.024, the agency shall  
3 establish an internal review process to ensure that the proposed  
4 rule is consistent with the legislative history in enacting or  
5 otherwise affecting the law under which the rule would be adopted.

6       (d) Before a state agency gives notice of its intention to  
7 adopt a rule under Sections 2001.023 and 2001.024, the agency shall  
8 inform the primary author and sponsor of legislation that became  
9 law and that added, amended, or clearly affected the law under which  
10 the rule would be adopted, if the primary author or sponsor is still  
11 a member of the legislature, that the adoption of a rule related to  
12 the member's legislation is being considered.

13       (e) Concurrently with the state agency's filing of the  
14 notice with the secretary of state, the agency shall deliver a copy  
15 of the notice of the proposed rule required by Sections 2001.023 and  
16 2001.024 to the primary author and sponsor as described in the  
17 legislative history if the primary author or sponsor is still a  
18 member of the legislature.

19       (f) Not later than the seventh day before the date the state  
20 agency considers the rule for final adoption, the agency shall  
21 deliver to the primary author and sponsor a copy of the rule as  
22 proposed for final adoption if the text of the rule differs from the  
23 text of the proposed rule published under Section 2001.024 and if  
24 the author or sponsor is still a member of the legislature. The  
25 state agency also shall notify the primary author and sponsor in a  
26 timely manner of the time and place of a public hearing held in  
27 connection with the contemplated rulemaking if the primary author

or sponsor is still a member of the legislature.

(g) The state agency shall deliver a copy of an emergency rule adopted under Section 2001.034 and the written reasons for its adoption to the primary author and sponsor as determined by the legislative history with respect to the law under which the emergency rule was adopted concurrently with the agency's filing of the rule and the reasons for its adoption with the secretary of state. If the state agency gives an abbreviated notice or conducts a hearing in connection with the adoption of the emergency rule, the agency shall also promptly furnish the primary author and sponsor with a copy of the notice and shall timely inform the primary author and sponsor of the time and place of the hearing.

(h) Failure to provide notice under this section does not invalidate an action taken or rule adopted ~~[Each house of the legislature by rule shall establish a process under which the presiding officer of each house refers each proposed state agency rule to the appropriate standing committee for review before the rule is adopted.]~~

~~[(b) A state agency shall deliver to the lieutenant governor and the speaker of the house of representatives a copy of the notice of a proposed rule when the agency files notice with the secretary of state under Section 2001.023.]~~

~~[(c) On the vote of a majority of its members, a standing committee may send to a state agency a statement supporting or opposing adoption of a proposed rule].~~

SECTION 26.03. Subsection (a), Section 2001.024, Government Code, is amended to read as follows:

1 (a) The notice of a proposed rule must include:

2 (1) a brief explanation of the proposed rule;

3 (2) the text of the proposed rule, except any portion  
4 omitted under Section 2002.014, prepared in a manner to indicate  
5 any words to be added or deleted from the current text;

6 (3) a statement of the statutory or other authority  
7 under which the rule is proposed to be adopted, including:

8 (A) a concise explanation of the particular  
9 statutory or other provisions under which the rule is proposed;

10 (B) the section or article of the code affected;  
11 ~~and~~

12 (C) a certification that the proposed rule has  
13 been reviewed by legal counsel and found to be within the state  
14 agency's authority to adopt; and

15 (D) a copy of the legislative history developed  
16 and used by the agency during the proposal process;

17 (4) a fiscal note showing the name and title of the  
18 officer or employee responsible for preparing or approving the note  
19 and stating for each year of the first five years that the rule will  
20 be in effect:

21 (A) the additional estimated cost to the state  
22 and to local governments expected as a result of enforcing or  
23 administering the rule;

24 (B) the estimated reductions in costs to the  
25 state and to local governments as a result of enforcing or  
26 administering the rule;

27 (C) the estimated loss or increase in revenue to

1 the state or to local governments as a result of enforcing or  
2 administering the rule; and

3 (D) if applicable, that enforcing or  
4 administering the rule does not have foreseeable implications  
5 relating to cost or revenues of the state or local governments;

6 (5) a note about public benefits and costs showing the  
7 name and title of the officer or employee responsible for preparing  
8 or approving the note and stating for each year of the first five  
9 years that the rule will be in effect:

10 (A) the public benefits expected as a result of  
11 adoption of the proposed rule; and

12 (B) the probable economic cost to persons  
13 required to comply with the rule;

14 (6) the local employment impact statement prepared  
15 under Section 2001.022, if required;

16 (7) a request for comments on the proposed rule from  
17 any interested person; and

18 (8) any other statement required by law.

19 SECTION 26.04. Section 2001.033, Government Code, is  
20 amended to read as follows:

21 Sec. 2001.033. STATE AGENCY ORDER ADOPTING RULE. (a) A  
22 state agency order finally adopting a rule must include:

23 (1) a reasoned justification for the rule as adopted  
24 consisting solely of:

25 (A) a summary of comments received from parties  
26 and of any written comments received from members of the  
27 legislature interested in the rule that shows the names of

1 interested groups or associations offering comment on the rule and  
2 of members of the legislature offering written comment on the rule  
3 and whether they were for or against its adoption;

4 (B) a summary of the factual basis for the rule as  
5 adopted which demonstrates a rational connection between the  
6 factual basis for the rule and the rule as adopted; and

7 (C) the reasons why the agency disagrees with  
8 party submissions and proposals and with any written comments or  
9 proposals offered by a member of the legislature;

10 (2) a concise restatement of the particular statutory  
11 provisions under which the rule is adopted and of how the agency  
12 interprets the provisions as authorizing or requiring the rule; and

13 (3) a certification that the rule, as adopted, has  
14 been reviewed by legal counsel and found to be:

15 (A) a valid exercise of the agency's legal  
16 authority; and

17 (B) consistent with the intent of the legislature  
18 in enacting or otherwise affecting the law under which the rule is  
19 adopted, as described by Section 2001.032(b).

20 (b) Nothing in this section shall be construed to require  
21 additional analysis of alternatives not adopted by an agency beyond  
22 that required by Subsection (a)(1)(C) [~~Subdivision (1)(C)~~] or to  
23 require the reasoned justification to be stated separately from the  
24 statements required in Subsection (a)(1) [~~Subdivision (1)~~].

25 SECTION 26.05. The changes in law made by this article  
26 relating to the process of state agency rulemaking apply only in  
27 relation to:

1           (1) a state agency rule for which notice of the rule as  
2 proposed is first published in the Texas Register under Sections  
3 2001.023 and 2001.024, Government Code, on or after December 1,  
4 2003; or

5           (2) an emergency rule adopted on or after November 15,  
6 2003.

7       ARTICLE 27. CONVENTION CENTER AND HOTEL FACILITIES DEVELOPMENT

8       SECTION 27.01. Subdivision (2), Section 351.001, Tax Code,  
9 is amended to read as follows:

10           (2) "Convention center facilities" or "convention  
11 center complex" means facilities that are primarily used to host  
12 conventions and meetings. The term means civic centers, civic  
13 center buildings, auditoriums, exhibition halls, and coliseums  
14 that are owned by the municipality or other governmental entity or  
15 that are managed in whole or part by the municipality. In a  
16 municipality with a population of 1.5 million or more, "convention  
17 center facilities" or "convention center complex" means civic  
18 centers, civic center buildings, auditoriums, exhibition halls,  
19 and coliseums that are owned by the municipality or other  
20 governmental entity or that are managed in part by the  
21 municipality, hotels owned by the municipality or a nonprofit  
22 municipally sponsored local government corporation created under  
23 Chapter 431, Transportation Code, within 1,000 feet of a convention  
24 center owned by the municipality, or a historic hotel owned by the  
25 municipality or a nonprofit municipally sponsored local government  
26 corporation created under Chapter 431, Transportation Code, within  
27 one mile of a convention center owned by the municipality. The term



1 includes parking areas or facilities that are for the parking or  
2 storage of conveyances and that are located at or in the vicinity of  
3 other convention center facilities. The term also includes a hotel  
4 owned by or located on land that is owned by an eligible central  
5 municipality or by a nonprofit corporation acting on behalf of an  
6 eligible central municipality and that is located within 1,000 feet  
7 of a convention center facility owned by the municipality. In a  
8 municipality that has a population of less than 114,000 and that  
9 contains a portion of the Bosque River, the terms include a hotel  
10 owned by the municipality or by a nonprofit corporation acting on  
11 behalf of the municipality and that is located within 1,500 feet of  
12 a convention center facility owned by the municipality.

13 SECTION 27.02. Subsection (a), Section 1504.001,  
14 Government Code, is amended to read as follows:

15 (a) A municipality may establish, acquire, lease as lessee  
16 or lessor, construct, improve, enlarge, equip, repair, operate, or  
17 maintain a facility such as:

18 (1) a civic center, auditorium, opera house, music  
19 hall, exhibition hall, coliseum, museum, library, or other  
20 municipal building;

21 (2) a golf course, tennis court, or other similar  
22 recreational facility;

23 (3) a hotel owned by a municipality or a nonprofit  
24 municipally sponsored local government corporation created under  
25 Chapter 431, Transportation Code, that is located:

26 (A) not more than 1,000 feet from a convention  
27 center owned by a municipality with a population of 1,500,000 or

1 more; or

2 (B) within 1,500 feet of a convention center  
3 facility owned by a municipality that has a population of less than  
4 114,000 and that contains a portion of the Bosque River;

5 (4) a historic hotel owned by a municipality or a  
6 nonprofit municipally sponsored local government corporation  
7 created under Chapter 431, Transportation Code, that is located not  
8 more than one mile from a convention center owned by a municipality  
9 with a population of 1,500,000 or more; or

10 (5) a parking facility at or in the immediate vicinity  
11 of a facility described by Subdivisions (1)-(4) for use in  
12 connection with that facility for off-street parking or storage of  
13 motor vehicles or other conveyances.

14 ARTICLE 28. CLOSURE OF CERTAIN PROGRAMS ON LOW-PERFORMING  
15 CAMPUSES

16 SECTION 28.01. Subsection (b), Section 39.132, Education  
17 Code, as amended by Senate Bill No. 618, Acts of the 78th  
18 Legislature, Regular Session, 2003, is amended to read as follows:

19 (b) If a campus has been a low-performing campus for a  
20 period of two consecutive years or more, the commissioner shall  
21 order the closure of the district or charter program on the campus  
22 or reconstitute the campus. In reconstituting the campus, a  
23 special campus intervention team shall be assembled for the purpose  
24 of deciding which educators may be retained at that campus. If an  
25 educator is not retained, the educator shall be assigned to another  
26 position in the district.

27 (1) the educator's employment with the school district

1 may be terminated under Section 21.157, if applicable; or

2 (2) the educator may be assigned to another position  
3 in the district.

4 ARTICLE 29. LIQUID WASTE MANAGEMENT

5 SECTION 29.01. Subchapter B, Chapter 361, Health and Safety  
6 Code, is amended by adding Section 361.034 to read as follows:

7 Sec. 361.034. RECORDS AND MANIFESTS REQUIRED FOR CERTAIN  
8 LIQUID WASTES. (a) The commission by rule shall require a person  
9 who is required by law applicable to this commission or commission  
10 rule created by this commission to use a manifest for the  
11 generation, transportation, or disposal of liquid waste to keep  
12 records and use a uniform manifest as prescribed by commission rule  
13 to ensure that the waste is transported to an appropriate  
14 processing, storage, or disposal facility or site permitted or  
15 authorized for that purpose.

16 (b) The rules must require each person subject to the rules  
17 to retain, for not less than three years, a copy of a transportation  
18 manifest that records the generator, the transporter, and the  
19 disposal site and method.

20 (c) The rules must require that aggregate amounts of waste  
21 recorded on the manifests required under this section match the  
22 amounts of waste reported to the commission annually. The  
23 commission may require copies of manifests to be submitted with  
24 reports to the commission or at other times.

25 SECTION 29.02. The Texas Commission on Environmental  
26 Quality shall adopt rules under Section 361.034, Health and Safety  
27 Code, as added by this article, as soon as practicable so that the

1 rules take effect not later than March 1, 2004.

2 SECTION 29.03. This article takes effect immediately if  
3 this Act receives a vote of two-thirds of all the members elected to  
4 each house, as provided by Section 39, Article III, Texas  
5 Constitution. If this Act does not receive the vote necessary for  
6 immediate effect, this article takes effect November 1, 2003.

7 ARTICLE 30. EXEMPTION OF WAIVER PROPOSALS FOR LOCAL HEALTH CARE  
8 COVERAGE DEMONSTRATION PROJECTS

9 SECTION 30.01. House Bill No. 3122, Acts of the 78th  
10 Legislature, Regular Session, 2003, does not apply to any waiver  
11 proposals for local demonstration projects submitted by the Health  
12 and Human Services Commission to the federal government on or  
13 before September 1, 2003, and the commission may request and  
14 actively pursue any necessary waivers, including a Health Insurance  
15 Flexibility and Accountability (HIFA) waiver, from a federal agency  
16 or any other appropriate entity to enable the commission to  
17 implement such demonstration projects.

18 ARTICLE 31. PARTICIPATION IN STATE EMPLOYEE CHARITABLE CAMPAIGN

19 SECTION 31.01. Any federation or organization that has  
20 heretofore participated in the state employee charitable campaign  
21 authorized by Subchapter I, Chapter 659, Government Code, shall not  
22 be barred from participation in the program, both in terms of actual  
23 participation and the purposes for which the contributions are  
24 used, as a result of changes made in the law by Sections 35, 36, 37,  
25 and 121, House Bill No. 2425, Acts of the 78th Legislature, Regular  
26 Session, 2003.

1                           ARTICLE 32.   EFFECTIVE DATE  
2                   SECTION 32.01.   Except as otherwise provided by this Act,  
3   this Act takes effect November 1, 2003.