

By: Swinford, Allen, Callegari, Casteel

H.B. No. 7

A BILL TO BE ENTITLED

AN ACT

relating to the reorganization of, efficiency in, and other reform measures applying to state government.

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

ARTICLE 1. GOVERNOR'S BUDGET AUTHORITY AND PAYMENT

OF CERTAIN TAX REFUNDS

SECTION 1.01. Section 401.046(a), Government Code, is amended to read as follows:

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

SECTION 1.02. (a) Rider 11, pages I-37 and I-38, Chapter 1330, Acts of the 78th Legislature, Regular Session, 2003 (the General Appropriations Act), is amended to read as follows:

11. Appropriation of Tax Refunds. As much of the respective taxes, fees, and charges, including penalties or other financial transactions administered or collected by the Comptroller as may be necessary is hereby appropriated and set aside to pay refunds, interest, and any costs and attorney fees awarded in court cases, as provided by law, subject to the following limitations and conditions:

a. Unless another law, or section of this Act,

1 provides a period within which a particular refund claim must be
2 made, funds appropriated herein may not be used to pay a refund
3 claim made under this section after four years from the latest date
4 on which the amount collected or received by the State was due, if
5 the amount was required to be paid on or before a particular date.
6 If the amount was not required to be paid on or before a particular
7 date, a refund claim may not be made after four years from the date
8 the amount was collected or received. A person who fails to make a
9 refund claim within the period provided by law, or this provision,
10 shall not be eligible to receive payment of a refund under this
11 provision.

12 b. As a specific limitation to the amount of refunds
13 paid from funds appropriated in this Act during the 2004-05
14 biennium, the Comptroller shall not approve claims or issue
15 warrants for refunds in excess of the amount of revenue estimated to
16 be available from the tax, fee, or other revenue source during the
17 biennium according to the Biennial Revenue Estimate of the
18 Comptroller of Public Accounts used for certification of this Act.
19 Any claim or portion of a claim which is in excess of the limitation
20 established by this subsection "b" shall be presented to the next
21 legislature for a specific appropriation in order for payment to be
22 made. The limitation established by this subsection "b" shall not
23 apply to any taxes or fees paid under protest.

24 ~~[c. None of the funds appropriated by this provision~~
25 ~~may be expended to pay a refund claim, a final judgement, or a~~
26 ~~settlement, including any statutory interest thereon or any costs~~
27 ~~and attorney fees awarded by court order, that is in excess of~~

1 ~~\$250,000. Any claim that is in excess of the limitation established~~
2 ~~by this subsection "c" shall be presented to the legislature for a~~
3 ~~specific appropriation in order for payment to be made.~~

4 ~~[d. None of the funds appropriated by this provision~~
5 ~~may be expended to pay a refund claim, a final judgment, or a~~
6 ~~settlement, including any statutory interest thereon or any costs~~
7 ~~and attorney fees awarded by court order, that would cause the~~
8 ~~aggregate amount paid to, or on behalf of, an individual or entity~~
9 ~~pursuant to this provision during the biennium beginning September~~
10 ~~1, 2003, to exceed \$250,000. Any claim that is in excess of the~~
11 ~~limitation established by this subsection "d" shall be presented to~~
12 ~~the legislature for a specific appropriation in order for payment~~
13 ~~to be made.~~

14 ~~[e. The limitations established by subsection "c" and~~
15 ~~subsection "d" do not apply to a payment made:~~

16 ~~[(1) on a final judgment in those cases where the~~
17 ~~judgment order of the trial court was entered prior to the effective~~
18 ~~date of this Act,~~

19 ~~[(2) on a settlement agreement executed prior to~~
20 ~~the effective date of this Act, or~~

21 ~~[(3) on a Comptroller's final decision issued~~
22 ~~prior to the effective date of this Act.~~

23 ~~[f. For purposes of this provision, "final judgment"~~
24 ~~means a judgment rendered in a federal court or a court in this~~
25 ~~state for which an appeal or rehearing, or application therefor, is~~
26 ~~not pending and for which the time limitations for appeal or~~
27 ~~rehearing have expired. For the purposes of this provision, a~~

~~Comptroller's final decision means a decision of the Comptroller which is administratively final and for which limitations has expired for seeking rehearing or filing a lawsuit in court. For the purposes of this provision, a "settlement agreement" must be in writing and signed by the necessary parties. A settlement agreement shall be deemed to be "executed" on the date upon which the last signature of a necessary party is affixed thereon.~~

~~[g. The payment of a settlement or final judgment may be made only with a complete release from any and all related claims and causes against the State, and in the case of a judgment, the payment may be made only in full satisfaction of that judgment.~~

~~[h. Subsection "c" and subsection "d" shall not apply to a refund granted pursuant to an informal review under Section 111.1042 of the Tax Code, if that refund claim is filed with the Comptroller no later than 120 days after the original due date of the report for the period for which the refund is claimed.~~

~~[i. This provision shall not apply to refunds of unclaimed property made pursuant to Title 6 of the Property Code.~~

~~[j. Except pursuant to this provision, none of the funds appropriated by this Act may be expended to pay a refund of any tax, fee, penalty, charge, or other assessment collected or administered by the Comptroller or to pay a judgment, settlement, or administrative hearing decision, including any statutory interest thereon or any costs and attorney fees awarded by court order, relating to a refund of any tax, fee, penalty, charge or other assessment collected or administered by the Comptroller.]~~

(b) This section applies to a tax refund payable from funds

appropriated by Chapter 1330, Acts of the 78th Legislature, Regular Session, 2003, regardless of whether the refund becomes payable before, on, or after the effective date of this section.

(c) This section 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 section takes effect on the 91st day after the last day of the legislative session.

SECTION 1.03. Section 401.047, Government Code, is repealed.

ARTICLE 2. UNCLAIMED PROPERTY

SECTION 2.01. Section 72.101(a), Property Code, is amended to read as follows:

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

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

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

SECTION 2.02. Subchapter B, Chapter 72, Property Code, is amended by adding Section 72.1015 to read as follows:

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

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

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

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

8 SECTION 2.03. Section 74.001(a), Property Code, as amended
9 by Chapter 465, Acts of the 78th Legislature, Regular Session,
10 2003, is amended to read as follows:

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

13 [~~(1)~~] Chapter 72, Chapter 73, or Chapter 75 [~~of this~~
14 ~~code, or~~

15 [~~(2) Subchapter C, Chapter 61, Labor Code~~].

16 SECTION 2.04. Section 74.101(a), Property Code, as amended
17 by Chapter 465, Acts of the 78th Legislature, Regular Session,
18 2003, is amended to read as follows:

19 (a) Each holder who on June 30 holds property that is
20 presumed abandoned under Chapter 72, 73, or 75 of this code or
21 under[7] Chapter 154, Finance Code, [~~or Subchapter C, Chapter 61,~~
22 ~~Labor Code,~~] shall file a report of that property on or before the
23 following November 1. The comptroller may require the report to be
24 in a particular format, including a format that can be read by a
25 computer.

26 SECTION 2.05. Section 74.301(a), Property Code, as amended
27 by Chapter 465, Acts of the 78th Legislature, Regular Session,

2003, is amended to read as follows:

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

SECTION 2.06. Subchapter G, Chapter 61, Labor Code, as added by Chapter 465, Acts of the 78th Legislature, Regular Session, 2003, is repealed.

SECTION 2.07. 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 3. ABANDONMENT OF PROCEEDS ON DEMUTUALIZATION

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

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

1 (1) communicated in writing with the holder of the
2 property or the holder's agent regarding the interest; or

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

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

10 SECTION 3.02. This article takes effect immediately if this
11 Act receives a vote of two-thirds of all the members elected to each
12 house, as provided by Section 39, Article III, Texas Constitution.
13 If this Act does not receive the vote necessary for immediate
14 effect, this article takes effect on the 91st day after the last day
15 of the legislative session.

16 ARTICLE 4. TELECONFERENCE MEETING OF LEGISLATIVE BUDGET BOARD

17 SECTION 4.01. Section 322.003, Government Code, is amended
18 by adding Subsections (d) and (e) to read as follows:

19 (d) As an exception to Chapter 551 and other law, if the
20 chairman and vice-chairman of the board are physically present at a
21 meeting, any number of the other members of the board may attend a
22 meeting of the board by use of telephone conference call, video
23 conference call, or other similar telecommunication device. This
24 subsection applies for purposes of constituting a quorum, for
25 purposes of voting, and for any other purpose allowing a member of
26 the board to otherwise fully participate in any meeting of the
27 board. This subsection applies without exception with regard to

1 the subject of the meeting or topics considered by the members.

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

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

6 (2) must specify in the notice of the meeting the
7 location of the meeting at which the chairman and vice-chairman
8 will be physically present;

9 (3) must be open to the public and shall be audible to
10 the public at the location specified in the notice of the meeting as
11 the location of the meeting at which the chairman and vice-chairman
12 will be physically present; and

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

19 SECTION 4.02. The change in law made by this article applies
20 in relation to a notice given on or after the effective date of this
21 article of a meeting of the Legislative Budget Board.

22 ARTICLE 5. ENERGY AND WATER CONSERVATION BY STATE AGENCIES

23 AND THE COLLECTION OF CERTAIN INFRASTRUCTURE FEES

24 SECTION 5.01. Chapter 447, Government Code, is amended by
25 adding Sections 447.010 and 447.011 to read as follows:

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

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

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

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

10 (B) fuel additive registered in accordance with
11 40 C.F.R. Part 79 that contains no known mutagenic materials and
12 that has been proven to reduce fuel consumption per mile or per hour
13 of operation by at least five percent; or

14 (C) fuel registered in accordance with 40 C.F.R.
15 Part 79 that contains no known mutagenic materials and that has been
16 proven to reduce fuel consumption per mile or per hour of operation
17 by at least five percent.

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

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

22 (A) an Environmental Protection Agency fuel
23 economy federal test protocol test performed at a laboratory
24 recognized by the Environmental Protection Agency;

25 (B) a fuel economy test performed in accordance
26 with protocols and at testing laboratories or facilities recognized
27 by the state energy conservation office, the Texas Commission on

1 Environmental Quality, or the Environmental Protection Agency; or

2 (C) a field demonstration performed in
3 accordance with Section 447.011.

4 (b) A state agency with 10 or more motor vehicles or
5 non-road diesels shall reduce the total fuel consumption of the
6 vehicles or diesels by at least five percent from fiscal year 2002
7 consumption levels through the use of cost-effective proven
8 fuel-saving technologies.

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

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

15 (1) is known to increase oxides of nitrogen emissions
16 or toxic air contaminants;

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

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

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

23 (f) A state agency shall competitively evaluate similar
24 fuel-saving technologies.

25 (g) A state agency may require a seller of a fuel-saving
26 technology to refund the cost of the technology if it is determined
27 to be ineffective at reducing fuel use by at least five percent

1 before the 91st day after the date the technology is first used by
2 the agency.

3 (h) A state agency may use fuel-saving technologies that the
4 agency determines are cost-effective and may use a fuel-saving
5 technology in applications that provide other benefits, including
6 emissions reductions.

7 (i) A state agency may establish a program for agency
8 employees to voluntarily:

9 (1) purchase fuel-saving technologies; and
10 (2) document reductions in fuel savings and air
11 emissions.

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

15 (k) This section does not apply to an institution of higher
16 education as defined by Section 61.003, Education Code.

17 Sec. 447.011. FIELD DEMONSTRATIONS. (a) Under the
18 direction of the state energy conservation office, the Texas
19 Department of Transportation shall demonstrate the effectiveness
20 of at least four fuel-saving technologies on a combined maximum of
21 100 motor vehicles or non-road diesels in accordance with this
22 section to determine the fuel-saving technologies that may
23 cost-effectively reduce fuel consumption and save state revenue.

24 (b) Varying ages and types of motor vehicles and non-road
25 diesels shall be selected to demonstrate the fuel-saving
26 technologies. Preference shall be given to high-use motor vehicles
27 and non-road diesels in the selection.

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

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

5 (2) performing controlled field tests.

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

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

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

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

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

20 (f) The Texas Council on Environmental Technology, The
21 University of Texas Center for Transportation Research, the
22 University of Houston Diesel Emissions Center, or another agency
23 may be designated to assist with executing the demonstration,
24 compiling the results, estimating the potential average fuel
25 savings of the technologies in different applications, or preparing
26 a final report.

27 (g) On completing the demonstration described by this

1 section, the state energy conservation office shall rank the
2 fuel-saving technologies based on their fuel savings, other cost
3 savings, and overall cost-effectiveness. The office shall:

4 (1) list recommended applications of the
5 technologies;

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

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

8 (h) The Texas Council on Environmental Technology shall
9 obtain information on any fuel-saving technology that appears to
10 reduce particulate matter, oxides of nitrogen, carbon monoxide, or
11 hydrocarbon emissions. The Texas Council on Environmental
12 Technology may use this information to fund the Environmental
13 Protection Agency verification of a technology in accordance with
14 Section 387.003, Health and Safety Code.

15 (i) The state energy conservation office shall provide the
16 report prepared under Subsection (g) to each state agency with 10 or
17 more motor vehicles or non-road diesels and to the Legislative
18 Budget Board.

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

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

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

27 (m) Money from the state highway fund may not be used for the

purchase, installation, maintenance, or operation of the fuel-saving technologies being assessed or subjected to controlled field tests under this section. Repairs to state equipment resulting from demonstrations of fuel-saving technologies must be paid from the same funds used to implement this section.

SECTION 5.02. Chapter 2113, Government Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. RESTRICTIONS ON CAPITAL EXPENDITURES

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

(a) In this section:

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

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

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

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

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

(c) If it is practicable to do so, a state agency that is

1 using appropriated money must finance a capital expenditure for a
2 state facility purpose with money generated by a utility cost
3 savings contract.

4 (d) If it is not practicable for a state agency that is using
5 appropriated money to finance a capital expenditure for a state
6 facility purpose with money generated by a utility cost savings
7 contract, the state agency must provide justification to the
8 comptroller for the capital expenditure.

9 (e) In determining under Subsection (b) whether a capital
10 expenditure could be financed by a utility cost savings contract, a
11 state agency must consider whether utility cost savings generated
12 by any department of that agency could be a potential means of
13 financing a capital expenditure for any department of that agency.
14 Money generated by a utility cost savings in one department of a
15 state agency may be used to finance capital expenditures for a state
16 facility purpose in any department of that agency.

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

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

21 (1) prevent a hazard to life, health, safety, welfare,
22 or property; or

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

24 (h) The Texas Building and Procurement Commission shall
25 appoint a task force to develop design recommendations that are to
26 be used for state facilities and that encourage rain harvesting and
27 water recycling by state agencies using appropriated money to

1 finance a capital expenditure for a state facility purpose.

2 ARTICLE 6. DESIGNATION OF PRESIDING OFFICERS

3 SECTION 6.01. Chapter 651, Government Code, is amended by
4 adding Section 651.010 to read as follows:

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

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

12 (2) a river authority as defined by Section 30.003,
13 Water Code.

14 (b) Notwithstanding other law, the governor may designate a
15 member of the governing body of each state agency as the presiding
16 officer of that governing body to serve in that capacity at the
17 pleasure of the governor.

18 (c) This section does not apply to:

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

21 (2) an entity that advises or reports to a state agency
22 headed by one or more statewide-elected officials;

23 (3) a river authority whose governing body is elected;
24 or

25 (4) a junior college district.

26 ARTICLE 7. ADMINISTRATION OF CERTAIN LEGISLATIVE AGENCIES

27 SECTION 7.01. Section 321.002(e), Government Code, is

1 amended to read as follows:

2 (e) The lieutenant governor and the speaker are joint chairs
3 of the committee. The committee shall elect ~~[organize by electing]~~
4 one member to serve as ~~[chairman and one member to serve as]~~
5 secretary.

6 SECTION 7.02. Sections 321.018(b) and (c), Government Code,
7 are amended to read as follows:

8 (b) Each subpoena must be signed by either of the joint
9 chairs of the committee ~~[chairman]~~ or the secretary of the
10 committee.

11 (c) On the request of either of the joint chairs of the
12 committee ~~[chairman]~~ or the secretary of the committee, the
13 sergeant at arms or an assistant sergeant at arms of either house of
14 the legislature or any peace officer shall serve the subpoena in the
15 manner prescribed for service of a district court subpoena.

16 SECTION 7.03. Section 322.001(b), Government Code, is
17 amended to read as follows:

18 (b) The lieutenant governor ~~[is the chairman of the board]~~
19 and the speaker are joint chairs of the board ~~[is the~~
20 ~~vice-chairman]~~.

21 SECTION 7.04. Sections 322.003(a) and (b), Government Code,
22 are amended to read as follows:

23 (a) A majority of the members of the board from each house
24 constitutes a quorum to transact business. If a quorum is present,
25 the board may act on any matter that is within its jurisdiction by a
26 majority vote.

27 (b) The board shall meet as often as necessary to perform

1 its duties. Meetings may be held at any time at the request ~~[at the~~
2 ~~call]~~ of either of the joint chairs of the board ~~[chairman]~~ or on
3 written petition of a majority of the members of the board from each
4 house.

5 SECTION 7.05. Section 322.006, Government Code, is amended
6 to read as follows:

7 Sec. 322.006. APPROVAL OF EXPENSES. Before payment may be
8 made on an item of expense for the board, one of the joint chairs of
9 the board ~~[chairman]~~ must approve the expense.

10 SECTION 7.06. Section 322.009, Government Code, is amended
11 to read as follows:

12 Sec. 322.009. INSPECTION COMMITTEES. Either of the joint
13 chairs of the board ~~[The chairman]~~, with the approval of the board,
14 may appoint a committee to visit, inspect, and report on any state
15 institution, department, agency, officer, or employee.

16 SECTION 7.07. Section 322.013(d), Government Code, is
17 amended to read as follows:

18 (d) For purposes of carrying out its duties, the board may
19 administer oaths and issue subpoenas, signed by either of the joint
20 chairs of the board ~~[chairman or vice-chairman]~~, to compel the
21 attendance of witnesses and the production of books, records, and
22 documents. A subpoena of the board shall be served by a peace
23 officer in the manner in which district court subpoenas are served.
24 On application of the board, a district court of Travis County shall
25 compel compliance with a subpoena issued by the board in the same
26 manner as for district court subpoenas.

27 SECTION 7.08. Section 323.001(b), Government Code, as

1 amended by Chapter 1328, Acts of the 78th Legislature, Regular
2 Session, 2003, is amended to read as follows:

3 (b) The council consists of:

4 (1) the lieutenant governor;

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

6 (3) the chairman of the house administration
7 committee;

8 (4) six [~~five~~] senators from various areas of the
9 state appointed by the president of the senate; and

10 (5) five [~~nine~~] other members of the house of
11 representatives from various areas of the state appointed by the
12 speaker.

13 SECTION 7.09. Section 323.001(c), Government Code, is
14 amended to read as follows:

15 (c) The lieutenant governor and the speaker are joint chairs
16 [~~is the chairman~~] of the council [~~and the speaker is the~~
17 ~~vice chairman~~].

18 SECTION 7.10. Sections 323.003(a) and (b), Government Code,
19 are amended to read as follows:

20 (a) The council shall meet as often as necessary to perform
21 its duties. Meetings may be held at any time at the request of
22 either of the joint chairs of the council.

23 (b) A majority of the [~~Twelve~~] members of the council from
24 each house of the legislature constitutes [~~including the chairman~~
25 ~~and vice chairman constitute~~] a quorum. If a quorum is present, the
26 council may act on any matter that is within its jurisdiction by a
27 majority vote.

SECTION 7.11. Section 323.005(c), Government Code, is amended to read as follows:

(c) The certificate of either of the joint chairs of the council [~~chairman or vice-chairman~~] is sufficient evidence of the validity of a claim. On certification, the comptroller shall issue warrants on the treasury to pay each claim for mileage and per diem expenses, salaries of employees, and other authorized expenses.

SECTION 7.12. Sections 323.008(a)-(d), Government Code, are amended to read as follows:

(a) If the council determines a need exists, either of the joint chairs [~~chairman~~] of the council may appoint statutory revision advisory committees to advise the council on matters relating to the revision of particular subjects of the law.

(b) Advisory committees consist of seven members appointed by a joint chair [~~the chairman~~] of the council. Advisory committee members serve for a period of two years from the date of appointment.

(c) In appointing an advisory committee, a joint chair [~~the chairman~~] shall include representatives of the:

- (1) State Bar of Texas;
- (2) judiciary; and
- (3) Texas law schools.

(d) An advisory committee shall meet at the call of either of the joint chairs [~~chairman~~] of the council.

SECTION 7.13. Section 323.011(b), Government Code, is amended to read as follows:

(b) A subpoena must be signed by either of the joint chairs

1 ~~[chairman]~~ of the council ~~[or the vice-chairman]~~.

2 SECTION 7.14. Section 323.012(b), Government Code, is
3 amended to read as follows:

4 (b) On the request of either of the joint chairs ~~[chairman]~~
5 of the council ~~[or the vice-chairman]~~, the attorney general shall
6 render opinions and give advice and assistance to the council.

7 SECTION 7.15. Sections 325.003(a), (d), and (j), Government
8 Code, are amended to read as follows:

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

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

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

1 membership.

2 SECTION 7.16. (a) If, on the effective date of this
3 article, more than five members of the house of representatives
4 appointed under Section 323.001(b)(5), Government Code, as amended
5 by this article, are serving as members of the Texas Legislative
6 Council:

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

9 (2) the speaker of the house of representatives, as
10 soon as possible on or after the effective date of this article,
11 shall appoint five members of the house to serve as members of the
12 Texas Legislative Council under Section 323.001(b)(5), Government
13 Code, as amended by this article.

14 (b) The lieutenant governor, as soon as possible on or after
15 the effective date of this article, shall appoint an additional
16 senator to serve as a member of the Texas Legislative Council under
17 Section 323.001(b)(4), Government Code, as amended by this article.

18 SECTION 7.17. The lieutenant governor and the speaker of
19 the house of representatives, as soon as possible on or after the
20 effective date of the section of this article that amends Section
21 325.003, Government Code, shall appoint a member of the senate or
22 the house of representatives, respectively, to serve initial terms
23 on the Sunset Advisory Commission under Section 325.003, Government
24 Code, as amended by this article, expiring September 1, 2005.

25 SECTION 7.18. The section of this article that amends
26 Section 325.003, Government Code, takes effect immediately if this
27 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, that section takes effect on the 91st day after the last day
of the legislative session.

ARTICLE 8. REPORTS

SECTION 8.01. Section 363.064(a), Health and Safety Code,
is amended to read as follows:

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

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

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

(3) include a description and assessment of existing
or proposed community programs for the collection of household
hazardous waste;

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

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

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

1 (7) allow a local government to justify the need for a
2 landfill in its jurisdiction to dispose of the solid waste
3 generated in the jurisdiction of another local government that does
4 not have a technically suitable site for a landfill in its
5 jurisdiction;

6 (8) establish recycling rate goals appropriate to the
7 area covered by the plan;

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

10 (A) creation and use of community composting
11 centers;

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

15 (C) development and promotion of education
16 programs on home composting, community composting, and the
17 separation of yard waste for use as mulch;

18 (10) include an inventory of municipal solid waste
19 landfill units, including:

20 (A) landfill units no longer in operation;

21 (B) the exact boundaries of each former landfill
22 unit or, if the exact boundaries are not known, the best
23 approximation of each unit's boundaries;

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

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

1 (E) the current use of the land;
2 (11) assess the need for new waste disposal capacity;
3 and
4 (12) include a public education program[, and
5 ~~[(13) include waste reduction in accordance with the~~
6 ~~goal established under Section 361.0201(d), to the extent that~~
7 ~~funds are available]~~.

8 SECTION 8.02. The heading to Section 5.178, Water Code, is
9 amended to read as follows:

10 Sec. 5.178. ANNUAL REPORTS; BIENNIAL APPENDICES
11 ~~[APPENDICES]~~.

12 SECTION 8.03. Section 5.178(b), Water Code, is amended to
13 read as follows:

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

16 (1) the commission's recommendations for necessary and
17 desirable legislation; and

18 (2) the following reports:

19 (A) the assessments and reports required by
20 Section ~~[Sections]~~ 361.0219(c) ~~[, 361.0232, 361.510, 371.063, and~~
21 ~~382.141]~~, Health and Safety Code;

22 (B) the reports required by Section 26.0135(d)
23 ~~[of this code]~~ and Section 5.02, Chapter 133, Acts of the 69th
24 Legislature, Regular Session, 1985; and

25 (C) a summary of the analyses and assessments
26 required by Section 5.1773 ~~[of this code]~~.

27 SECTION 8.04. (a) Sections 361.020, 361.0201, 361.0232,

1 361.0233, 361.0234, 361.040(d), 361.0871(c), 361.510, 371.063,
2 382.141, Health and Safety Code, are repealed.

3 (b) Section 5.178(c), Water Code, is repealed.

4 SECTION 8.05. (a) It is the policy of this state to be
5 effective and efficient with public funds, to provide for effective
6 and efficient management of natural resources, and to serve the
7 people of Texas by making the government more visible, accessible,
8 coherent, consistent, and accountable to the people of Texas. The
9 legislature finds that the Texas Commission on Environmental
10 Quality's procedures for processing permits is cumbersome,
11 confusing, lengthy, and inefficient for citizens, business,
12 political subdivisions, and the commission.

13 (b) The Texas Commission on Environmental Quality's
14 permitting processes warrant, and the legislature directs, an
15 in-depth evaluation, including the identification of problems,
16 potential options, and solutions. The evaluation must solicit and
17 consider input from all stakeholders, including public hearings and
18 the opportunity for submission of written and oral comments. The
19 solutions identified in the final assessment of the commission's
20 permitting processes must ensure that:

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

23 (2) the commission's permitting processes are
24 streamlined;

25 (3) the commission's permitting processes are
26 user-friendly to citizens and promote sound economic development;
27 and

(4) all stakeholder concerns are considered.

(c) A seven-member study committee shall conduct the evaluation and final assessment required by Subsection (b) of this section and submit its findings not later than December 1, 2004, to the governor, the lieutenant governor, the speaker of the house of representatives, the Texas Commission on Environmental Quality, and the chair of the standing committee of each house of the legislature with primary jurisdiction over environmental issues. The study committee shall consist of:

(1) three appointees of the lieutenant governor;

(2) three appointees of the speaker of the house of representatives; and

(3) one public member appointed by the governor.

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

ARTICLE 9. ABOLITION OF TEXAS COMMISSION ON

PRIVATE SECURITY

SECTION 9.01. Section 1702.002, Occupations Code, is amended by adding Subdivisions (1-a) and (5-a) to read as follows:

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

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

SECTION 9.02. Subchapter A, Chapter 1702, Occupations Code, is amended by adding Sections 1702.005 and 1702.006 to read as follows:

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

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

6 Sec. 1702.006. TEXAS DEPARTMENT OF HEALTH. (a) In this
7 section, "personal emergency response system" means an alarm system
8 that is:

- 9 (1) installed in the residence of a person;
10 (2) monitored by an alarm systems company;
11 (3) designed only to permit the person to signal the
12 occurrence of a medical or personal emergency on the part of the
13 person so that the company may dispatch appropriate aid; and
14 (4) not part of a combination of alarm systems that
15 includes a burglar alarm or fire alarm.

16 (b) Notwithstanding the other provisions of this chapter,
17 the Texas Department of Health shall administer the provisions of
18 this chapter that are applicable to the following persons:

- 19 (1) an alarm systems company that sells, installs,
20 services, monitors, or responds to only personal emergency response
21 systems;
22 (2) an alarm systems installer who installs,
23 maintains, or repairs only personal emergency response systems;
24 (3) a manager or branch office manager of an alarm
25 systems company described by Subdivision (1);
26 (4) a security salesperson who is employed by an alarm
27 systems company described by Subdivision (1) to sell services

1 offered by the company; and

2 (5) an owner, officer, partner, or shareholder of an
3 alarm systems company described by Subdivision (1).

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

7 SECTION 9.03. Section 1702.021(a), Occupations Code, as
8 amended by Chapter 1170, Acts of the 78th Legislature, Regular
9 Session, 2003, is amended to read as follows:

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

13 (1) four public members, each of whom is a citizen of
14 the United States;

15 (2) one member who [~~+~~
16 [~~(A)~~] is licensed under this chapter as a private
17 investigator;

18 [~~(B) has been engaged as a private investigator~~
19 ~~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;~~

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

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

26 [~~(B) is not employed by a person who employs~~
27 ~~another member of the commission;~~

1 (4) one member who~~+~~
2 ~~[(A)]~~ is licensed under this chapter as the owner
3 or operator of a guard company~~+~~
4 ~~[(B) has been the owner or operator of the guard~~
5 ~~company for at least the five years preceding appointment; and~~
6 ~~[(C) is not employed by a person who employs~~
7 ~~another member of the commission; and~~
8 ~~[(5) one member who:~~
9 ~~[(A) holds a license, security officer~~
10 ~~commission, or registration under this chapter;~~
11 ~~[(B) has been engaged in activity regulated by~~
12 ~~the commission under this chapter for at least the five years~~
13 ~~preceding appointment; and~~
14 ~~[(C) is not employed by a person who employs~~
15 ~~another member of the commission].~~

16 SECTION 9.04. Section 1702.025, Occupations Code, as
17 amended by Chapter 1170, Acts of the 78th Legislature, Regular
18 Session, 2003, and Section 1702.026, Occupations Code, are amended
19 to read as follows:

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

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

27 Sec. 1702.026. OFFICERS. (a) The governor shall designate

1 one board [~~commission~~] member as presiding officer to serve in that
2 capacity at the will of the governor. The governor shall designate
3 the presiding officer without regard to race, creed, color,
4 disability, sex, religion, age, or national origin.

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

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

14 SECTION 9.05. Subchapter D, Chapter 1702, Occupations Code,
15 is amended by adding Section 1702.0615 to read as follows:

16 Sec. 1702.0615. PLACEMENT OF PRIORITY ON PROCESSING CERTAIN
17 APPLICATIONS. (a) In performing its functions and duties under
18 this chapter, the board shall place a high priority on processing
19 applications for licenses, security officer commissions, and
20 registrations filed by persons who provide protection for critical
21 infrastructure, as defined by Section 421.001, Government Code.

22 (b) The board shall act on an application described by
23 Subsection (a) as expeditiously as possible but not later than the
24 60th day after the date the board receives the application.

25 (c) This section expires December 1, 2005.

26 SECTION 9.06. Section 1702.022, Occupations Code, is
27 repealed.

1 SECTION 9.07. Not later than February 1, 2004, the governor
2 shall appoint the members of the Texas Private Security Board, as
3 required under Section 1702.021, Occupations Code, as amended by
4 this article. In appointing the initial members of the board under
5 this section, the governor shall appoint:

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

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

8 and

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

10 SECTION 9.08. (a) On February 1, 2004:

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

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

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

23 (4) a complaint, investigation, or other proceeding
24 before the Texas Commission on Private Security is transferred
25 without change in status to the Texas Private Security Board or the
26 Texas Department of Health, as determined by a memorandum of
27 understanding between the Department of Public Safety of the State

1 of Texas and the Texas Department of Health, and the Texas Private
2 Security Board or the Texas Department of Health, as applicable,
3 assumes, as appropriate and without a change in status, the
4 position of the Texas Commission on Private Security in an action or
5 proceeding to which the Texas Commission on Private Security is a
6 party;

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

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

18 (b) Before February 1, 2004, the Texas Commission on Private
19 Security may agree with the Department of Public Safety of the State
20 of Texas and the Texas Department of Health to transfer any property
21 of the Texas Commission on Private Security to the Department of
22 Public Safety of the State of Texas or the Texas Department of
23 Health to implement the transfer required by this article.

24 (c) During the period beginning on the effective date of
25 this article and ending on February 1, 2004, the Texas Commission on
26 Private Security shall continue to perform functions and activities
27 under Chapter 1702, Occupations Code, as if that chapter had not

1 been amended by this article, and the former law is continued in
2 effect for that purpose.

3 ARTICLE 10. OVERSIGHT OF REGIONAL PLANNING COMMISSIONS

4 SECTION 10.01. The heading to Section 391.009, Local
5 Government Code, is amended to read as follows:

6 Sec. 391.009. ROLE OF STATE AUDITOR, GOVERNOR, AND STATE
7 AGENCIES.

8 SECTION 10.02. Section 391.009, Local Government Code, is
9 amended by amending Subsection (a) and adding Subsections (a-1) and
10 (a-2) to read as follows:

11 (a) To protect the public interest and ~~[or]~~ promote the
12 efficient use of public funds, the governor, with the technical
13 assistance of the state auditor, may draft and ~~[shall]~~ adopt:

14 (1) rules relating to the operation and oversight of a
15 commission;

16 (2) rules relating to the receipt or expenditure of
17 funds by a commission, including:

18 (A) restrictions on the expenditure of any
19 portion of commission funds for certain classes of expenses; and

20 (B) restrictions on the maximum amount of or
21 percentage of commission funds that may be expended on a class of
22 expenses, including indirect costs or travel expenses;

23 (3) annual reporting requirements for a commission;

24 (4) annual audit requirements on funds received or
25 expended by a commission from any source;

26 (5) rules relating to the establishment and use of
27 standards by which the productivity and performance of each

1 commission can be evaluated; and

2 (6) guidelines that commissions and governmental
3 units shall follow in carrying out the provisions of this chapter
4 relating to review and comment procedures.

5 (a-1) The governor may draft and adopt rules under
6 Subsection (a) using negotiated rulemaking procedures under
7 Chapter 2008, Government Code.

8 (a-2) Based on a risk assessment performed by the state
9 auditor and subject to the legislative audit committee's approval
10 for inclusion in the audit plan under Section 321.013, Government
11 Code, the state auditor's office shall assist the governor as
12 provided by Subsection (a).

13 SECTION 10.03. Section 391.0095, Local Government Code, as
14 amended by Chapter 785, Acts of the 78th Legislature, Regular
15 Session, 2003, is amended to read as follows:

16 Sec. 391.0095. AUDIT AND REPORTING REQUIREMENTS. (a) The
17 audit and reporting requirements under Section 391.009(a) shall
18 include a requirement that a commission annually report to the
19 state auditor ~~[governor]~~:

20 (1) the amount and source of funds received by the
21 commission;

22 (2) the amount and source of funds expended by the
23 commission;

24 (3) an explanation of any method used by the
25 commission to compute an expense of the commission, including
26 computation of any indirect cost of the commission;

27 (4) a report of the commission's productivity and

1 performance during the annual reporting period;

2 (5) a projection of the commission's productivity and
3 performance during the next annual reporting period;

4 (6) the results of an audit of the commission's affairs
5 prepared by an independent certified public accountant; and

6 (7) a report of any assets disposed of by the
7 commission.

8 (b) The annual audit of a commission may be commissioned [~~by~~
9 ~~the governor's office or~~] by the commission or at the direction of
10 the governor's office, as determined by the governor's office, and
11 shall be paid for from the commission's funds.

12 (c) A commission shall submit any other report or an audit
13 to the state auditor and [~~required by~~] the governor.

14 (d) If a commission fails to submit a report or audit
15 required under this section or is determined by the state auditor
16 [~~governor~~] to have failed to comply with a rule, requirement, or
17 guideline adopted under Section 391.009, the state auditor shall
18 report the failure to the governor's office. The governor may,
19 until the failure is corrected:

20 (1) appoint a receiver to operate or oversee the
21 commission; or

22 (2) withhold any appropriated funds of the commission.

23 (e) A commission shall send to the governor, the state
24 auditor, the comptroller, and the Legislative Budget Board a copy
25 of each report and audit required under this section or under
26 Section 391.009. The state auditor may review each audit and
27 report, subject to a risk assessment performed by the state auditor

1 and to the legislative audit committee's approval of including the
2 review in the audit plan under Section 321.013, Government Code. If
3 the state auditor reviews the audit or report, the state auditor
4 must be given access to working papers and other supporting
5 documentation that the state auditor determines is necessary to
6 perform the review. If the state auditor finds significant issues
7 involving the administration or operation of a commission or its
8 programs, the state auditor shall report its findings and related
9 recommendations to the legislative audit committee, the governor,
10 and the commission. The governor and the legislative audit
11 committee may direct the commission to prepare a corrective action
12 plan or other response to the state auditor's findings or
13 recommendations. The legislative audit committee may direct the
14 state auditor to perform any additional audit or investigative work
15 that the committee determines is necessary.

16 SECTION 10.04. Section 391.0117(e), Local Government Code,
17 is amended to read as follows:

18 (e) A commission shall submit to the state auditor
19 ~~[governor]~~ the commission's salary schedule, including the
20 salaries of all exempt positions, not later than the 45th day before
21 the date of the beginning of the commission's fiscal year. If the
22 state auditor, subject to the legislative audit committee's
23 approval for inclusion in the audit plan under Section 321.013,
24 Government Code, has recommendations to improve ~~[governor objects~~
25 ~~to]~~ a commission's salary schedule or a portion of the schedule, the
26 state auditor shall report the recommendations to the governor's
27 office. The governor's office may not allow the portion of the

1 schedule for which ~~[that]~~ the state auditor has recommendations to
2 ~~[governor objects to may not]~~ go into effect until revisions or
3 explanations are given that are satisfactory to the governor based
4 on recommendations from the state auditor ~~[and the governor~~
5 ~~approves that portion of the schedule]~~.

6 SECTION 10.05. On the effective date of this article, a
7 rule, requirement, or guideline adopted by the governor relating to
8 the oversight of regional planning commissions remains in effect
9 until amended or repealed by the governor.

10 ARTICLE 11. COMMISSIONER OF INSURANCE

11 SECTION 11.01. Section 31.023, Insurance Code, is amended
12 to read as follows:

13 Sec. 31.023. QUALIFICATIONS. The commissioner must:

- 14 (1) be a competent and experienced administrator;
15 (2) be well informed and qualified in the field of
16 insurance and insurance regulation; and
17 (3) have at least five ~~[10]~~ years of experience ~~[as an~~
18 ~~executive]~~ in the administration of business or government or as a
19 practicing attorney or certified public accountant~~[, with at least~~
20 ~~five years of that experience in the field of insurance or insurance~~
21 ~~regulation]~~.

22 SECTION 11.02. The change in law made by this article to
23 Section 31.023, Insurance Code, applies only to the appointment of
24 the commissioner of insurance on or after the effective date of this
25 article. A commissioner of insurance appointed before the
26 effective date of this article is governed by the law as it existed
27 immediately before that date, and that law is continued in effect

1 for this purpose.

2 ARTICLE 12. PARDONS AND PAROLES

3 SECTION 12.01. Section 492.0131, Government Code, is
4 amended to read as follows:

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

15 SECTION 12.02. 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 12.03. Section 508.031(a), Government Code, is
25 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 12.04. Section 508.032, Government Code, is amended
2 by adding Subsections (c)-(e) to read as follows:

3 (c)(1) A person who is a former employee of the department
4 may not serve on the board before the second anniversary of the date
5 the person terminated employment with the department.

6 (2) A person who is employed by the department on
7 August 1, 2003, may not be employed by the board before August 1,
8 2005.

9 (d) At any time not more than three members of the board may
10 be former employees of the department.

11 (e) For purposes of Subsections (c) and (d), previous
12 service as a board member is not considered to be employment with
13 the department.

14 SECTION 12.05. Section 508.034, Government Code, is amended
15 to read as follows:

16 Sec. 508.034. GROUNDS FOR REMOVAL. (a) It is a ground for
17 removal from the board that a member:

18 (1) does not have at the time of taking office the
19 qualification required by Section 508.032(b) for appointment to the
20 board;

21 (2) is ineligible for membership under Section
22 508.033;

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

26 (4) is absent from more than half of the regularly
27 scheduled board or panel meetings that the member is eligible to

attend during each calendar year~~[, except when the absence is excused by majority vote of the board]~~.

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

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

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

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

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

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

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

4 SECTION 12.06. Section 508.035, Government Code, is amended
5 by amending Subsection (c) and adding Subsection (d) to read as
6 follows:

7 (c) The presiding officer reports directly to the governor
8 and serves as the administrative head of the [~~policy board and the~~]
9 board.

10 (d) The presiding officer may:

11 (1) delegate responsibilities and authority to other
12 members of the board, parole commissioners, or to employees of the
13 board;

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

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

19 SECTION 12.07. Section 508.036, Government Code, as amended
20 by Section 31.01, Chapter 1170, Acts of the 78th Legislature,
21 Regular Session, 2003, is amended to read as follows:

22 Sec. 508.036. [~~POLICY BOARD: COMPOSITION,~~] GENERAL
23 ADMINISTRATIVE DUTIES. (a) The presiding officer [~~governor shall~~
24 ~~designate seven members of the board to serve as the Board of~~
25 ~~Pardons and Paroles Policy Board. The governor shall designate the~~
26 ~~presiding officer of the board as one of the seven members of the~~
27 ~~policy board, and the presiding officer of the board shall serve as~~

1 ~~presiding officer of the policy board. Service on the policy board~~
2 ~~is an additional duty of office for members appointed to the policy~~
3 ~~board.~~

4 ~~[(b) Members of the board designated as members of the~~
5 ~~policy board serve on the policy board for six-year terms that are~~
6 ~~concurrent with their six-year terms on the board, with the service~~
7 ~~of two or three members expiring February 1 of each odd-numbered~~
8 ~~year.~~

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

10 (1) develop and implement policies that clearly
11 separate the policy-making responsibilities of the board and the
12 management responsibilities of the board administrator, parole
13 commissioners, and the staff of the board ~~[adopt rules relating to~~
14 ~~the decision-making processes used by the board and parole panels];~~

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

19 (3) update parole guidelines, assign precedential
20 value to previous decisions of the board relating to the granting of
21 parole and the revocation of parole or mandatory supervision, and
22 develop policies to ensure that members of the board and parole
23 commissioners use guidelines and previous decisions of the board
24 and parole commissioners in making decisions under this chapter;

25 (4) require members of the board and parole
26 commissioners to file activity reports~~[, on forms provided by the~~
27 ~~policy board,]~~ that provide information on release decisions made

1 by members of the board and parole commissioners, the workload and
2 hours worked of the members of the board and parole commissioners,
3 and the use of parole guidelines by members of the board and parole
4 commissioners; and

5 (5) report at least annually to the governor and the
6 legislature on the [board] activities of the board and parole
7 commissioners, parole release decisions, and the use of parole
8 guidelines by the board and parole commissioners.

9 (b) The board shall:

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

12 (2) prepare information of public interest describing
13 the functions of the board and make the information available to the
14 public and appropriate state agencies;

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

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

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

26 (d) The board, in performing its duties, is subject to the
27 open meetings law, Chapter 551, and the administrative procedure

1 law, Chapter 2001. This subsection does not affect the provisions
2 of Section 2001.223 exempting hearings and interviews conducted by
3 the board or the division from Section 2001.038 and Subchapters
4 C-H, Chapter 2001.

5 SECTION 12.08. Section 508.0362, Government Code, is
6 amended to read as follows:

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

13 (2) A parole commissioner employed by the board may
14 not vote or deliberate on a matter described by Section 508.0441
15 until the person completes at least one course of a training program
16 that complies with this section.

17 (b) A training program must provide information to the
18 person regarding:

19 (1) the enabling legislation that created the board
20 [~~and the policy board~~];

21 (2) the programs operated by the board;

22 (3) the role and functions of the board and parole
23 commissioners;

24 (4) the rules of the board;

25 (5) the current budget for the board;

26 (6) the results of the most recent formal audit of the
27 board;

(7) the requirements of the:

(A) open meetings law, Chapter 551;

(B) open records law, Chapter 552; and

(C) administrative procedure law, Chapter 2001;

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

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

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

SECTION 12.09. Section 508.040(a), Government Code, is amended to read as follows:

(a) The presiding officer, with the advice and consent of a majority of the board, 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 12.10. 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 determined by the ~~[policy]~~ board to have value as precedents for decisions in subsequent hearings;

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

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

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

SECTION 12.11. Section 508.042, Government Code, is amended

to read as follows:

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

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

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

SECTION 12.12. 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,

1 including special conditions;

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

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

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

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

12 (1) a parole decision; or

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

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

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

19 (2) the conduct of a parole or mandatory supervision
20 hearing; or

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

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

26 (e) ~~[(f)]~~ Board members and parole commissioners shall, at
27 the direction of the presiding officer, file activity reports on

duties performed under this chapter.

SECTION 12.13. Section 508.045, Government Code, is amended to read as follows:

Sec. 508.045. PAROLE PANELS. (a) Except as provided by Section 508.046, board members and parole commissioners shall act in panels composed of three [~~persons each~~] in matters of:

- (1) release on parole;
- (2) release to mandatory supervision; and
- (3) revocation of parole or mandatory supervision.

(b) The presiding officer [~~of the board~~] shall designate the composition of each panel and shall designate panels composed of at least one board member and any combination of board members and parole commissioners.

(c) A parole panel may:

- (1) grant, deny, or revoke parole;
- (2) revoke mandatory supervision; and
- (3) conduct parole revocation hearings and mandatory supervision revocation hearings.

SECTION 12.14. Section 508.047(a), 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 12.15. 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

1 Criminal Justice, shall adopt a mission statement that reflects the
2 responsibilities for the operation of the parole process that are
3 assigned to the [~~policy board, the~~] board, the division, the
4 department, or the Texas Board of Criminal Justice.

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

9 SECTION 12.16. Section 508.082, Government Code, is amended
10 to read as follows:

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

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

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

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

20 (B) an employee of the board; or

21 (C) an employee of the department.

22 SECTION 12.17. Section 508.141(g), Government Code, as
23 added by Chapter 349, Acts of the 78th Legislature, Regular
24 Session, 2003, is amended to read as follows:

25 (g) The [~~policy~~] board shall adopt a policy establishing the
26 date on which the board may reconsider for release an inmate who has
27 previously been denied release. The policy must require the board

1 to reconsider for release an inmate serving a sentence for an
2 offense listed in Section 508.149(a) during a month designated by
3 the parole panel that denied release. The designated month must
4 begin after the first anniversary of the date of the denial and end
5 before the fifth anniversary of the date of the denial. The policy
6 must require the board to reconsider for release an inmate other
7 than an inmate serving a sentence for an offense listed in Section
8 508.149(a) as soon as practicable after the first anniversary of
9 the date of the denial.

10 SECTION 12.18. Section 508.144(b), Government Code, is
11 amended to read as follows:

12 (b) If a board member or parole commissioner deviates from
13 the parole guidelines in voting on a parole decision, the member or
14 parole commissioner shall:

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

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

19 SECTION 12.19. Section 508.153(b), Government Code, is
20 amended to read as follows:

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

25 SECTION 12.20. Section 508.281(a), Government Code, is
26 amended to read as follows:

27 (a) A releasee, a person released although ineligible for

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

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

10 (2) is arrested after an ineligible release.

11 SECTION 12.21. Section 508.313(c), Government Code, as
12 amended by Section 3, Chapter 6, Acts of the 78th Legislature,
13 Regular Session, 2003, is amended to read as follows:

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

17 (1) the governor;

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

19 (3) the Criminal Justice Policy Council in performing
20 duties of the council under Section 413.017; or

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

24 SECTION 12.22. (a) Section 508.0361, Government Code, is
25 repealed.

26 (b) Section 31.02, Chapter 1170, Acts of the 78th
27 Legislature, Regular Session, 2003, is repealed.

1 SECTION 12.23. (a) The governor shall appoint new members
2 to the Board of Pardons and Paroles on or before February 1, 2004,
3 and the terms of members serving on January 31, 2004, expire on the
4 appointment of the new members. The governor shall appoint as new
5 members at least three persons who:

6 (1) have never been employed by the Texas Department
7 of Criminal Justice; and

8 (2) were serving on the Board of Pardons and Paroles on
9 May 1, 2003, or on that date had been nominated for board membership
10 and were awaiting confirmation.

11 (b) Of the new members of the Board of Pardons and Paroles,
12 the governor shall appoint two to serve terms expiring February 1,
13 2005, two to serve terms expiring February 1, 2007, and three to
14 serve terms expiring February 1, 2009. On the expiration of the
15 terms of the initial members of the new board, the term of a member
16 appointed by the governor is six years.

17 (c) On the effective date of this article, a rule of the
18 Board of Pardons and Paroles Policy Board is a rule of the Board of
19 Pardons and Paroles.

20 SECTION 12.24. Notwithstanding Section 508.040(a),
21 Government Code, as amended by this article, until February 1,
22 2004, the presiding officer of the Board of Pardons and Paroles
23 shall exercise responsibilities imposed by Section 508.040(a) with
24 the advice and consent of the Board of Pardons and Paroles Policy
25 Board.

26 SECTION 12.25. It is the intent of the legislature that
27 members serving on the Board of Pardons and Paroles on May 1, 2003,

1 be offered the first opportunity to be hired as parole
2 commissioners employed under Chapter 508, Government Code, as
3 amended by this article.

4 ARTICLE 13. EFFECTIVE DATE

5 SECTION 13.01. Except as otherwise provided by this Act,
6 this Act takes effect on the 91st day after the last day of the
7 legislative session.