

1-1 By: McCall (Senate Sponsor - Bivins) H.B. No. 28
1-2 (In the Senate - Received from the House September 17, 2003;
1-3 September 17, 2003, read first time and referred to Committee on
1-4 Finance; September 22, 2003, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 10, Nays 0;
1-6 September 22, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 28 By: Bivins

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to state fiscal management, including various matters
1-11 related to increasing administrative efficiency in state
1-12 government; making related appropriations.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 ARTICLE 1. STATE AIRCRAFT POOLING

1-15 SECTION 1.01. The heading to Subchapter A, Chapter 2205,
1-16 Government Code, is amended to read as follows:

1-17 SUBCHAPTER A. STATE AIRCRAFT POOLING [~~BOARD~~]; GENERAL PROVISIONS

1-18 SECTION 1.02. Section 2205.002(1), Government Code, is
1-19 amended to read as follows:

1-20 (1) "Department [~~Board~~]" means the Texas Department of
1-21 Transportation [~~State Aircraft Pooling Board~~].

1-22 SECTION 1.03. Section 2205.032, Government Code, is amended
1-23 to read as follows:

1-24 Sec. 2205.032. CUSTODY, CONTROL, OPERATION, AND
1-25 MAINTENANCE. (a) The department [~~board~~] shall operate a pool for
1-26 the custody, control, operation, and maintenance of all aircraft
1-27 owned or leased by the state.

1-28 (b) The department [~~board~~] may purchase aircraft with funds
1-29 appropriated for that purpose.

1-30 (c) As part of the strategic plan that the department
1-31 [~~board~~] develops and submits under Chapter 2056, the department
1-32 [~~board~~] shall develop a long-range plan for its pool of aircraft.
1-33 The department [~~board~~] shall include appropriate portions of the
1-34 long-range plan in its legislative appropriations request. The
1-35 long-range plan must include estimates of future aircraft
1-36 replacement needs and other fleet management needs, including any
1-37 projected need to increase or decrease the number of aircraft in the
1-38 pool. In developing the long-range plan, the department [~~board~~]
1-39 shall consider at a minimum for each aircraft in the pool:

1-40 (1) how much the aircraft is used and the purposes for
1-41 which it is used;

1-42 (2) the cost of operating the aircraft and the revenue
1-43 generated by the aircraft; and

1-44 (3) the demand for the aircraft or for that type of
1-45 aircraft.

1-46 SECTION 1.04. Section 2205.034, Government Code, is amended
1-47 to read as follows:

1-48 Sec. 2205.034. FACILITIES. (a) The department [~~board~~] may
1-49 acquire appropriate facilities for the accommodation of all
1-50 aircraft owned or leased by the state. The facilities may be
1-51 purchased or leased as determined by the department [~~board~~] to be
1-52 most economical for the state and as provided by legislative
1-53 appropriations. The facilities may include adequate hangar space,
1-54 an indoor passenger waiting area, a flight-planning area,
1-55 communications facilities, and other related and necessary
1-56 facilities.

1-57 (b) A state agency that operates an aircraft may not use a
1-58 facility in Austin other than a facility operated by the department
1-59 [~~board~~] for the storage, parking, fueling, or maintenance of the
1-60 aircraft, whether or not the aircraft is based in Austin. In a
1-61 situation the department [~~board~~] determines to be an emergency, the
1-62 department [~~board~~] may authorize a state agency to use a facility in
1-63 Austin other than a department [~~board~~] facility for the storage,

2-1 parking, fueling, or maintenance of an aircraft.

2-2 SECTION 1.05. Section 2205.035, Government Code, is amended
2-3 to read as follows:

2-4 Sec. 2205.035. AIRCRAFT LEASES. (a) The department
2-5 [~~board~~] by interagency contract may lease state-owned aircraft to a
2-6 state agency.

2-7 (b) A state agency that is the prior owner or lessee of an
2-8 aircraft has the first option to lease that aircraft from the
2-9 department [~~board~~].

2-10 (c) The lease may provide for operation or maintenance by
2-11 the department [~~board~~] or the state agency.

2-12 (d) A state agency may not expend appropriated funds for the
2-13 lease of an aircraft unless the department [~~board~~] executes the
2-14 lease or approves the lease by department [~~board~~] order.

2-15 (e) A state agency may not use money appropriated by the
2-16 legislature to rent or lease aircraft except from the department
2-17 [~~board~~] or as provided by Subsection (f). For purposes of this
2-18 subsection and Subsection (f), payments of mileage reimbursements
2-19 provided for by the General Appropriations Act are not rentals or
2-20 leases of aircraft.

2-21 (f) If the department [~~board~~] determines that no
2-22 state-owned aircraft is available to meet a transportation need
2-23 that has arisen or that a rental or lease of aircraft would reduce
2-24 the state's transportation costs, the department [~~board~~] shall
2-25 authorize a state agency to expend funds for the rental or lease of
2-26 aircraft, which may include a helicopter.

2-27 SECTION 1.06. Section 2205.036, Government Code, is amended
2-28 to read as follows:

2-29 Sec. 2205.036. PASSENGER TRANSPORTATION. (a) The
2-30 department [~~board~~] shall provide aircraft transportation, to the
2-31 extent that its aircraft are available, to:

2-32 (1) state officers and employees who are traveling on
2-33 official business according to the coordinated passenger
2-34 scheduling system and the priority scheduling system developed as
2-35 part of the aircraft operations manual under Section 2205.038;

2-36 (2) persons in the care or custody of state officers or
2-37 employees described by Subdivision (1); and

2-38 (3) persons whose transportation furthers official
2-39 state business.

2-40 (b) The department [~~board~~] may not provide aircraft
2-41 transportation to a passenger if the passenger is to be transported
2-42 to or from a place where the passenger:

2-43 (1) will make or has made a speech not related to
2-44 official state business;

2-45 (2) will attend or has attended an event sponsored by a
2-46 political party;

2-47 (3) will perform a service or has performed a service
2-48 for which the passenger is to receive an honorarium, unless the
2-49 passenger reimburses the department [~~board~~] for the cost of
2-50 transportation;

2-51 (4) will attend or has attended an event at which money
2-52 is raised for private or political purposes; or

2-53 (5) will attend or has attended an event at which an
2-54 audience was charged an admission fee to see or hear the passenger.

2-55 (c) The department [~~board~~] may not provide aircraft
2-56 transportation to a destination unless:

2-57 (1) the destination is not served by a commercial
2-58 carrier;

2-59 (2) the time required to use a commercial carrier
2-60 interferes with passenger obligations; or

2-61 (3) the number of passengers traveling makes the use
2-62 of state aircraft cost-effective.

2-63 (d) The department shall monitor and ensure compliance with
2-64 the requirements of this section.

2-65 SECTION 1.07. Section 2205.038, Government Code, is amended
2-66 to read as follows:

2-67 Sec. 2205.038. AIRCRAFT OPERATIONS MANUAL. (a) The
2-68 department [~~board~~] shall:

2-69 (1) prepare a manual that establishes minimum

standards for the operation of aircraft by state agencies; and
 (2) adopt procedures for the distribution of the manual to state agencies.

(b) The manual must include provisions for:

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

(2) recurring training programs for pilots;

(3) general operating and flight rules;

(4) coordinated passenger scheduling; and

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

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

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

SECTION 1.08. Section 2205.039, Government Code, is amended to read as follows:

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

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

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

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

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

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

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

(3) the date of each flight;

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

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

(c) A state agency other than the department [~~board~~] shall send travel logs to the department [~~board~~] each month in which the agency operates an aircraft.

(d) The department shall monitor and ensure compliance by state agencies with the requirements of this section.

(e) The department shall annually report to the Legislative Budget Board on air travel information received under this section.

SECTION 1.09. Section 2205.040, Government Code, is amended to read as follows:

Sec. 2205.040. RATES AND BILLING PROCEDURES. (a) The department [~~board~~] shall adopt rates for interagency aircraft services that are sufficient to recover~~, in the aggregate and to the extent possible,~~ all expenses incurred under this chapter [direct costs for the services provided], including current obligations for capital equipment financed under the Texas Public Finance Authority's master lease purchase program and aircraft replacement costs [a state agency's pro rata share of major maintenance, overhauls of equipment and facilities, and pilots' salaries].

(b) The department shall deposit all revenue received under this chapter to the credit of the state highway fund. Money

4-1 deposited to the credit of the state highway fund under this chapter
 4-2 is exempt from the application of Section 403.095 [~~Legislative~~
 4-3 ~~Budget Board, in cooperation with the board and the state auditor,~~
 4-4 ~~shall prescribe a billing procedure for passenger travel on~~
 4-5 ~~state-operated aircraft].~~

4-6 (c) The department may spend money from the state highway
 4-7 fund for expenses incurred under this chapter.

4-8 (d) It is the intent of the legislature that receipts and
 4-9 expenditures that relate to the state highway fund under this
 4-10 chapter be balanced over time so that, to the extent practicable,
 4-11 the receipts and expenditures do not result in a net gain or net
 4-12 loss to the fund.

4-13 SECTION 1.10. Section 2205.041(a), Government Code, is
 4-14 amended to read as follows:

4-15 (a) The Legislative Budget Board, in cooperation with the
 4-16 department [~~board~~], shall prescribe:

4-17 (1) an annual aircraft use form for gathering
 4-18 information about the use of state-operated aircraft, including the
 4-19 extent to which and the methods by which the goal provided by
 4-20 Section 2205.031(b) is being met; and

4-21 (2) procedures for each state agency that operates an
 4-22 aircraft for sending the form to the department [~~board~~] and the
 4-23 Legislative Budget Board.

4-24 SECTION 1.11. Section 2205.042, Government Code, is amended
 4-25 to read as follows:

4-26 Sec. 2205.042. PILOTS. An individual who is not a pilot
 4-27 employed by the department [~~board~~] may not operate a state-operated
 4-28 aircraft unless the department [~~board~~] grants the individual a
 4-29 specific exemption from that requirement.

4-30 SECTION 1.12. Section 2205.043(b), Government Code, is
 4-31 amended to read as follows:

4-32 (b) The department [~~board~~] shall adopt rules, consistent
 4-33 with federal regulations and Subtitle A, Title 11 [~~Article 6139f,~~
 4-34 ~~Revised Statutes~~], governing the color, size, and location of marks
 4-35 of identification required by this section.

4-36 SECTION 1.13. Section 2205.044, Government Code, is amended
 4-37 to read as follows:

4-38 Sec. 2205.044. FUEL AND MAINTENANCE CONTRACTS. The
 4-39 department [~~board~~] may contract with a state or federal
 4-40 governmental agency or a political subdivision to provide aircraft
 4-41 fuel or to provide aircraft maintenance services.

4-42 SECTION 1.14. Section 2205.045(a), Government Code, is
 4-43 amended to read as follows:

4-44 (a) The department [~~board~~] may purchase insurance to
 4-45 protect the department [~~board~~] from loss caused by damage, loss,
 4-46 theft, or destruction of aircraft owned or leased by the state and
 4-47 shall purchase liability insurance to protect the officers and
 4-48 employees of each state agency from loss arising from the operation
 4-49 of state-owned aircraft.

4-50 SECTION 1.15. Section 2205.046, Government Code, is amended
 4-51 to read as follows:

4-52 Sec. 2205.046. AIRCRAFT FOR FLIGHT TRAINING PROGRAMS. (a)
 4-53 The department [~~board~~] may transfer aircraft to a public technical
 4-54 institute or other public postsecondary educational institution
 4-55 for use in the institution's flight training program. Except as
 4-56 provided by this section, the department [~~board~~] has no
 4-57 responsibility for continued maintenance of aircraft transferred
 4-58 under this section.

4-59 (b) As a condition to the transfer of the aircraft, the
 4-60 institution must certify in writing to the department [~~board~~] that
 4-61 the institution will accept full responsibility for maintenance of
 4-62 the aircraft and that it will be properly maintained while in the
 4-63 custody and control of the institution. The department [~~board~~] is
 4-64 entitled to inspect the aircraft without notice for the purpose of
 4-65 insuring that the aircraft are properly maintained.

4-66 (c) The department [~~board~~] may immediately reassume custody
 4-67 and control of a transferred aircraft on a finding by the department
 4-68 [~~board~~] that:

4-69 (1) the aircraft is not being properly maintained;

5-1 (2) the aircraft is being used for a purpose other than
5-2 flight training; or

5-3 (3) the institution has discontinued its flight
5-4 training program.

5-5 SECTION 1.16. Section 2205.047, Government Code, is amended
5-6 to read as follows:

5-7 Sec. 2205.047. INFORMATION POSTED ON THE INTERNET. The
5-8 department [~~board~~] shall post information related to travel and
5-9 other services provided by the department under this chapter
5-10 [~~board~~] on an Internet site maintained by or for the department
5-11 [~~board~~]. The site must be generally accessible to state agencies,
5-12 persons who use the department's [~~board's~~] services, and, to the
5-13 extent appropriate, the general public.

5-14 SECTION 1.17. Sections 2205.003-2205.019, Government Code,
5-15 are repealed.

5-16 SECTION 1.18. On the effective date of this Act:

5-17 (1) the State Aircraft Pooling Board is abolished and
5-18 all powers, duties, obligations, rights, contracts, leases, bonds,
5-19 appropriations, records, employees, and real or personal property
5-20 of the State Aircraft Pooling Board are transferred to the Texas
5-21 Department of Transportation;

5-22 (2) a rule, manual, form, policy, procedure, approval,
5-23 authorization, or decision of the State Aircraft Pooling Board
5-24 continues in effect as a rule, manual, form, policy, procedure,
5-25 approval, authorization, or decision of the Texas Department of
5-26 Transportation until superseded by an act of the Texas Department
5-27 of Transportation;

5-28 (3) a reference in law to the State Aircraft Pooling
5-29 Board means the Texas Department of Transportation; and

5-30 (4) the number of full-time equivalent positions
5-31 intended to be allocated to the State Aircraft Pooling Board by
5-32 Chapter 1330, Acts of the 78th Legislature, Regular Session, 2003
5-33 (the General Appropriations Act), is reduced by 39 for fiscal years
5-34 2004 and 2005, and the number of full-time equivalent positions
5-35 allocated to the Texas Department of Transportation is increased by
5-36 39 for fiscal years 2004 and 2005 for the purpose of administering
5-37 Chapter 2205, Government Code.

5-38 SECTION 1.19. (a) Notwithstanding any other law, the
5-39 General Land Office shall sell to the Texas Department of
5-40 Transportation for fair market value the approximately three-acre
5-41 property formerly operated by the State Aircraft Pooling Board at
5-42 the site of the former Robert Mueller Municipal Airport.

5-43 (b) The department may only:

5-44 (1) use the property described by Subsection (a) of
5-45 this section for purposes consistent with the operation of an
5-46 intelligent transportation system unless the City of Austin and
5-47 Travis County agree to a different use; and

5-48 (2) lease an unneeded portion of the property
5-49 described by Subsection (a) of this section under the procedures
5-50 prescribed by Subchapter C, Chapter 202, Transportation Code, if
5-51 the lease is approved by the City of Austin and Travis County.

5-52 (c) In this section, "intelligent transportation system"
5-53 means a traffic management system designed to enhance the
5-54 efficiency and safety of the transportation system in the Austin
5-55 regional area through the remote monitoring and broadcasting of
5-56 traffic information. The term does not include the maintenance of
5-57 vehicles, the storage of fuel, or the storage of vehicles.

5-58 SECTION 1.20. Before March 1, 2004, the Texas Department of
5-59 Transportation shall file with the governor, the lieutenant
5-60 governor, the speaker of the house of representatives, and the
5-61 Legislative Budget Board a complete and detailed report on the
5-62 transfer of powers and duties from the State Aircraft Pooling Board
5-63 to the Texas Department of Transportation.

5-64 ARTICLE 2. WORKERS' COMPENSATION RESEARCH

5-65 SECTION 2.01. Subtitle A, Title 5, Labor Code, is amended by
5-66 adding Chapter 405 to read as follows:

5-67 CHAPTER 405. WORKERS' COMPENSATION RESEARCH

5-68 Sec. 405.001. DEFINITION. In this chapter, "department"
5-69 means the Texas Department of Insurance.

6-1 Sec. 405.002. WORKERS' COMPENSATION RESEARCH DUTIES OF
 6-2 DEPARTMENT. (a) The department shall conduct professional studies
 6-3 and research related to:

- 6-4 (1) the delivery of benefits;
 6-5 (2) litigation and controversy related to workers'
 6-6 compensation;
 6-7 (3) insurance rates and rate-making procedures;
 6-8 (4) rehabilitation and reemployment of injured
 6-9 workers;
 6-10 (5) workplace health and safety issues;
 6-11 (6) the quality and cost of medical benefits; and
 6-12 (7) other matters relevant to the cost, quality, and
 6-13 operational effectiveness of the workers' compensation system.

6-14 (b) The department may apply for and spend grant funds to
 6-15 implement this chapter.

6-16 (c) The department shall ensure that all research reports
 6-17 prepared under this chapter or by the former Research and Oversight
 6-18 Council on Workers' Compensation are accessible to the public
 6-19 through the Internet to the extent practicable.

6-20 Sec. 405.003. FUNDING; MAINTENANCE TAX. (a) The
 6-21 department's duties under this chapter are funded through the
 6-22 assessment of a maintenance tax collected annually from all
 6-23 insurance carriers, and self-insurance groups that hold
 6-24 certificates of approval under Chapter 407A, except governmental
 6-25 entities.

6-26 (b) The department shall set the rate of the maintenance tax
 6-27 based on the expenditures authorized and the receipts anticipated
 6-28 in legislative appropriations. The tax rate for insurance
 6-29 companies may not exceed one-tenth of one percent of the correctly
 6-30 reported gross workers' compensation insurance premiums. The tax
 6-31 rate for certified self-insurers may not exceed one-tenth of one
 6-32 percent of the total tax base of all certified self-insurers, as
 6-33 computed under Section 407.103(b). The tax rate for self-insurance
 6-34 groups described by Subsection (a) may not exceed one-tenth of one
 6-35 percent of the group's gross premium for the group's retention,
 6-36 excluding premium collected by the group for excess insurance.

6-37 (c) The tax imposed under Subsection (a) is in addition to
 6-38 all other taxes imposed on those insurance carriers for workers'
 6-39 compensation purposes.

6-40 (d) The tax on insurance companies and on self-insurance
 6-41 groups described by Subsection (a) shall be assessed, collected,
 6-42 and paid in the same manner and at the same time as the maintenance
 6-43 tax established for the support of the department under Article
 6-44 5.68, Insurance Code. The tax on certified self-insurers shall be
 6-45 assessed, collected, and paid in the same manner and at the same
 6-46 time as the self-insurer maintenance tax collected under Section
 6-47 407.104.

6-48 (e) Amounts received under this section shall be deposited
 6-49 in the state treasury in accordance with Article 5.68(e), Insurance
 6-50 Code, to be used:

- 6-51 (1) for the operation of the department's duties under
 6-52 this chapter; and
 6-53 (2) to reimburse the general revenue fund in
 6-54 accordance with Article 4.19, Insurance Code.

6-55 (f) Section 403.095, Government Code, does not apply in
 6-56 relation to amounts received under this section or to any special
 6-57 account into which the amounts are deposited.

6-58 Sec. 405.004. COORDINATION WITH OTHER STATE AGENCIES;
 6-59 CONFIDENTIALITY. (a) As required to fulfill the department's
 6-60 objectives under this chapter, the department is entitled to access
 6-61 to the files and records of:

- 6-62 (1) the commission;
 6-63 (2) the Texas Workforce Commission;
 6-64 (3) the Texas Department of Human Services;
 6-65 (4) the State Office of Risk Management; and
 6-66 (5) other state agencies.

6-67 (b) A state agency shall assist and cooperate in providing
 6-68 information to the department.

6-69 (c) Information that is confidential under state law is

7-1 accessible to the department under rules of confidentiality and
 7-2 remains confidential.

7-3 (d) The identity of an individual or entity selected to
 7-4 participate in a department survey or who participates in such a
 7-5 survey is confidential and is not subject to public disclosure
 7-6 under Chapter 552, Government Code.

7-7 SECTION 2.02. (a) Chapter 404 and Section 413.021(f),
 7-8 Labor Code, are repealed.

7-9 (b) The Research and Oversight Council on Workers'
 7-10 Compensation, including the council's board of directors, is
 7-11 abolished on the effective date of this Act. All state records and
 7-12 other property of the council on the effective date of this Act are
 7-13 transferred to the Texas Department of Insurance. Any reference in
 7-14 law to the Research and Oversight Council on Workers' Compensation,
 7-15 the council's board of directors, the Texas Workers' Compensation
 7-16 Research Center, or the research center's board means the Texas
 7-17 Department of Insurance or the commissioner of insurance, as
 7-18 appropriate.

7-19 (c) The Texas Department of Insurance shall assume
 7-20 responsibility for any obligation incurred or contract entered into
 7-21 by the Research and Oversight Council on Workers' Compensation
 7-22 before the effective date of this article.

7-23 (d) The Texas Department of Insurance shall enter into an
 7-24 interagency agreement with the Texas Workers' Compensation
 7-25 Commission to share the costs of continued participation in the
 7-26 Workers' Compensation Research Institute's CompScope multistate
 7-27 report series.

7-28 SECTION 2.03. The special account established under Section
 7-29 404.003, Labor Code, as that section existed before being repealed
 7-30 by this Act, is re-created and transferred to the Texas Department
 7-31 of Insurance's General Revenue and Insurance Companies Maintenance
 7-32 Tax and Insurance Department Fees Account to be used for the
 7-33 purposes described by Section 405.003, Labor Code, as added by this
 7-34 Act.

7-35 ARTICLE 3. TEXAS COMMISSION ON PRIVATE SECURITY

7-36 SECTION 3.01. Section 1702.002, Occupations Code, is
 7-37 amended by adding Subdivisions (1-a) and (5-a) to read as follows:

7-38 (1-a) "Board" means the Texas Private Security Board.

7-39 (5-a) "Department" means the Department of Public
 7-40 Safety of the State of Texas.

7-41 SECTION 3.02. Subchapter A, Chapter 1702, Occupations Code,
 7-42 is amended by adding Section 1702.005 to read as follows:

7-43 Sec. 1702.005. DEPARTMENT OF PUBLIC SAFETY. (a) The board
 7-44 created under Section 1702.021 is a part of the department. The
 7-45 department shall administer this chapter through the board.

7-46 (b) A reference in this chapter or another law to the Texas
 7-47 Commission on Private Security means the board.

7-48 SECTION 3.03. Section 1702.021(a), Occupations Code, is
 7-49 amended to read as follows:

7-50 (a) The Texas [~~Commission on~~] Private Security Board
 7-51 consists of seven [~~eight~~] members appointed by the governor with
 7-52 the advice and consent of the senate as follows:

7-53 (1) four public members, each of whom is a citizen of
 7-54 the United States;

7-55 (2) one member who [~~+~~
 7-56 [~~(A)~~] is licensed under this chapter as a private
 7-57 investigator;

7-58 [~~(B) has been engaged as a private investigator~~
 7-59 ~~for at least the five years preceding appointment, and~~

7-60 [~~(C) is not employed by a person who employs~~
 7-61 ~~another member of the commission,]~~

7-62 (3) one member who is licensed under this chapter as an
 7-63 alarm systems company; and [~~who~~+

7-64 [~~(A) has been engaged as an alarm systems company~~
 7-65 ~~for at least the five years preceding appointment, and~~

7-66 [~~(B) is not employed by a person who employs~~
 7-67 ~~another member of the commission,]~~

7-68 (4) one member who [~~+~~
 7-69 [~~(A)~~] is licensed under this chapter as the owner

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

8-14 SECTION 3.04. Section 1702.025, Occupations Code, as
 8-15 amended by Chapter 1170, Acts of the 78th Legislature, Regular
 8-16 Session, 2003, and Section 1702.026, Occupations Code, are amended
 8-17 to read as follows:

8-18 Sec. 1702.025. TERMS; VACANCIES. (a) The board [~~appointed~~
 8-19 ~~commission]~~ members serve staggered six-year terms, with the terms
 8-20 of two or three [~~appointed~~] members expiring on January 31 of each
 8-21 odd-numbered year.

8-22 (b) If a vacancy occurs during the term of a board [~~an~~
 8-23 ~~appointed commission]~~ member, the governor shall appoint a new
 8-24 member to fill the unexpired term.

8-25 Sec. 1702.026. OFFICERS. (a) The governor shall designate
 8-26 one board [~~commission]~~ member as presiding officer to serve in that
 8-27 capacity at the will of the governor. The governor shall designate
 8-28 the presiding officer without regard to race, creed, color,
 8-29 disability, sex, religion, age, or national origin.

8-30 (b) The board [~~commission, including the representative of~~
 8-31 ~~the director of the Texas Department of Public Safety if one is~~
 8-32 ~~designated,~~] shall elect from among its members an assistant
 8-33 presiding officer and a secretary to serve two-year terms beginning
 8-34 on September 1 of each odd-numbered year.

8-35 (c) The presiding officer of the board [~~commission]~~ or, in
 8-36 the absence of the presiding officer, the assistant presiding
 8-37 officer shall preside at each board [~~commission]~~ meeting and
 8-38 perform the other duties prescribed by this chapter.

8-39 SECTION 3.05. Section 1702.022, Occupations Code, is
 8-40 repealed.

8-41 SECTION 3.06. Not later than the 60th day after the
 8-42 effective date of this Act, the governor shall appoint the members
 8-43 of the Texas Private Security Board, as required under Section
 8-44 1702.021, Occupations Code, as amended by this Act. In appointing
 8-45 the initial members of the board under this section, the governor
 8-46 shall appoint:

- 8-47 (1) two members for terms expiring January 31, 2005;
 8-48 (2) two members for terms expiring January 31, 2007;
 8-49 and
 8-50 (3) three members for terms expiring January 31, 2009.

8-51 SECTION 3.07. (a) On the 60th day after the effective date
 8-52 of this Act:

8-53 (1) the Texas Commission on Private Security is
 8-54 abolished, and all functions and activities performed by the Texas
 8-55 Commission on Private Security immediately before that date are
 8-56 transferred to the Texas Private Security Board of the Department
 8-57 of Public Safety of the State of Texas;

8-58 (2) a rule or form adopted by the Texas Commission on
 8-59 Private Security is a rule or form of the Texas Private Security
 8-60 Board and remains in effect until superseded by that board;

8-61 (3) a reference in law or an administrative rule to the
 8-62 Texas Commission on Private Security means the Texas Private
 8-63 Security Board;

8-64 (4) a complaint, investigation, or other proceeding
 8-65 before the Texas Commission on Private Security is transferred
 8-66 without change in status to the Texas Private Security Board, and
 8-67 the Texas Private Security Board assumes, as appropriate and
 8-68 without a change in status, the position of the Texas Commission on
 8-69 Private Security in an action or proceeding to which the Texas

9-1 Commission on Private Security is a party;
 9-2 (5) all property in the custody of the Texas
 9-3 Commission on Private Security is transferred to the Texas Private
 9-4 Security Board; and

9-5 (6) the unexpended and unobligated balance of any
 9-6 money appropriated by the legislature for the Texas Commission on
 9-7 Private Security is transferred to the Texas Private Security
 9-8 Board.

9-9 (b) Before the 60th day after the effective date of this
 9-10 Act, the Texas Commission on Private Security may agree with the
 9-11 Department of Public Safety of the State of Texas to transfer any
 9-12 property of the Texas Commission on Private Security to the
 9-13 Department of Public Safety of the State of Texas to implement the
 9-14 transfer required by this Act.

9-15 (c) During the period beginning on the effective date of
 9-16 this Act and ending on the 60th day after the effective date of this
 9-17 Act, the Texas Commission on Private Security shall continue to
 9-18 perform functions and activities under Chapter 1702, Occupations
 9-19 Code, as if that chapter had not been amended by this Act, and the
 9-20 former law is continued in effect for that purpose.

9-21 ARTICLE 4. TEXAS COUNCIL ON ENVIRONMENTAL TECHNOLOGY

9-22 SECTION 4.01. Sections 386.051(a) and (b), Health and
 9-23 Safety Code, are amended to read as follows:

9-24 (a) The utility commission, the commission, and the
 9-25 comptroller [~~and the council~~] shall establish and administer the
 9-26 Texas emissions reduction plan in accordance with this chapter.

9-27 (b) Under the plan, the commission [~~and the comptroller~~]
 9-28 [~~and the council~~] shall provide grants or other funding for:

9-29 (1) the diesel emissions reduction incentive program
 9-30 established under Subchapter C, including for infrastructure
 9-31 projects established under that subchapter;

9-32 (2) the motor vehicle purchase or lease incentive
 9-33 program established under Subchapter D; and

9-34 (3) the new technology research and development
 9-35 program established under Chapter 387.

9-36 SECTION 4.02. Section 387.001, Health and Safety Code, is
 9-37 amended to read as follows:

9-38 Sec. 387.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

9-39 (1) "Commission" means the Texas Commission on
 9-40 Environmental Quality.

9-41 (2) "Program" [~~and "program"~~] means the new technology
 9-42 research and development program.

9-43 SECTION 4.03. Section 387.002(b), Health and Safety Code,
 9-44 as amended by Section 1, Chapter 29, Acts of the 78th Legislature,
 9-45 Regular Session, 2003, is amended to read as follows:

9-46 (b) The Texas Council on Environmental Technology shall
 9-47 work to enhance the entrepreneurial and inventive spirit of Texans
 9-48 to assist in developing solutions to air, water, and waste problems
 9-49 by:

9-50 (1) identifying and evaluating new technologies and
 9-51 seeking the approval of the United States Environmental Protection
 9-52 Agency for and facilitating the deployment of those technologies;
 9-53 and

9-54 (2) assisting the commission and the United States
 9-55 Environmental Protection Agency in the process of ensuring credit
 9-56 for new, innovative, and creative technological advancements [~~+~~

9-57 [~~(3) competing for and managing federal grants and~~
 9-58 ~~funds from other sources available for carrying out the objectives~~
 9-59 ~~of the council, and~~

9-60 [~~(4) entering into public-private partnerships to~~
 9-61 ~~facilitate development of environmental technology infrastructure~~
 9-62 ~~in this state].~~

9-63 SECTION 4.04. Section 387.003, Health and Safety Code, as
 9-64 amended by Section 2, Chapter 29, and Section 13, Chapter 1331, Acts
 9-65 of the 78th Legislature, Regular Session, 2003, is amended to read
 9-66 as follows:

9-67 Sec. 387.003. NEW TECHNOLOGY RESEARCH AND DEVELOPMENT
 9-68 PROGRAM. (a) The commission, in consultation with the Texas
 9-69 Council on Environmental Technology, shall establish and

10-1 administer a new technology research and development program as
 10-2 provided by this chapter.

10-3 (b) Under the program, the commission [~~Texas Council on~~
 10-4 ~~Environmental Technology~~] shall provide grants to be used to
 10-5 support development of emissions-reducing technologies that may be
 10-6 used for projects eligible for awards under Chapter 386 and other
 10-7 new technologies that show promise for commercialization. The
 10-8 primary objective of this chapter is to promote the development of
 10-9 commercialization technologies that will support projects that may
 10-10 be funded under Chapter 386 and this chapter, including advanced
 10-11 technologies such as fuel cells, catalysts, and fuel additives.

10-12 [~~(c) When making a grant under the program, the Texas~~
 10-13 ~~Council on Environmental Technology may collect a fee from the~~
 10-14 ~~grant recipient in an amount not to exceed five percent of the~~
 10-15 ~~amount of the grant to be used by the council only to:~~

10-16 [~~(1) monitor project progress;~~
 10-17 [~~(2) disseminate information about project~~
 10-18 ~~accomplishments;~~

10-19 [~~(3) track technology deployment into the~~
 10-20 ~~marketplace; and~~

10-21 [~~(4) provide estimates of the impact that~~
 10-22 ~~commercialization of funded projects will have on the environment.]~~

10-23 SECTION 4.05. Section 387.004, Health and Safety Code, is
 10-24 amended to read as follows:

10-25 Sec. 387.004. SOLICITATION OF NEW TECHNOLOGY PROPOSALS.
 10-26 The commission [~~Texas Council on Environmental Technology~~] from
 10-27 time to time shall issue specific requests for proposals (RFPs) or
 10-28 program opportunity notices (PONs) for technology projects to be
 10-29 funded under the program.

10-30 SECTION 4.06. Sections 387.005(b) and (c), Health and
 10-31 Safety Code, and Section 387.005(f), Health and Safety Code, as
 10-32 added by Section 3, Chapter 29, Acts of the 78th Legislature,
 10-33 Regular Session, 2003, are amended to read as follows:

10-34 (b) The commission [~~Texas Council on Environmental~~
 10-35 ~~Technology~~] shall identify and evaluate and may consider making
 10-36 grants for technology projects that would allow qualifying fuels to
 10-37 be produced from energy resources in this state. In considering
 10-38 projects under this subsection, the commission [~~council~~] shall give
 10-39 preference to projects involving otherwise unusable energy
 10-40 resources in this state and producing qualifying fuels at prices
 10-41 lower than otherwise available and low enough to make the projects
 10-42 to be funded under the program economically attractive to local
 10-43 businesses in the area for which the project is proposed.

10-44 (c) In soliciting proposals under Section 387.004 and
 10-45 determining how to allocate grant money available for projects
 10-46 under this chapter, the commission [~~Texas Council on Environmental~~
 10-47 ~~Technology~~] shall give special consideration to advanced
 10-48 technologies and retrofit or add-on projects that provide multiple
 10-49 benefits by reducing emissions of particulates and other air
 10-50 pollutants.

10-51 (f) If a commissioner [~~member of the Texas Council on~~
 10-52 ~~Environmental Technology~~] is an employee or owner of an entity that
 10-53 applies for a grant under this chapter, the commissioner [~~member~~],
 10-54 before a vote on the grant, shall disclose the fact of the
 10-55 commissioner's [~~member's~~] employment or ownership. The disclosure
 10-56 must be entered into the minutes of the meeting. The commissioner
 10-57 [~~member~~] may not vote on or otherwise participate in the awarding of
 10-58 the grant. If the commissioner [~~member~~] does not comply with this
 10-59 subsection, the entity is not eligible for the grant.

10-60 SECTION 4.07. Section 387.006(b), Health and Safety Code,
 10-61 is amended to read as follows:

10-62 (b) The commission [~~Texas Council on Environmental~~
 10-63 ~~Technology~~] shall consider specifically, for each proposed
 10-64 technology project application:

10-65 (1) the projected potential for reduced emissions of
 10-66 oxides of nitrogen and the cost-effectiveness of the technology
 10-67 once it has been commercialized;

10-68 (2) the potential for the technology to contribute
 10-69 significantly to air quality goals; and

(3) the strength of the commercialization plan.

SECTION 4.08. Section 387.007, Health and Safety Code, is amended to read as follows:

Sec. 387.007. COST-SHARING. The commission [~~Texas Council on Environmental Technology~~] may require cost-sharing for technology projects funded under this chapter but may not require repayment of grant money, except that the commission [~~council~~] shall require provisions for recapturing grant money for noncompliance with grant requirements. Grant money recaptured under the contract provision shall be deposited in the environmental research fund and reallocated for other projects under this chapter.

SECTION 4.09. Section 387.008, Health and Safety Code, as amended by Section 4, Chapter 29, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

Sec. 387.008. ENVIRONMENTAL RESEARCH FUND. (a) The environmental research fund is an account in the general revenue fund. The fund consists of [~~fees collected under Section 387.003(e) and~~] money from gifts, grants, or donations to the fund for designated or general use and from any other source designated by the legislature.

(b) Money in the environmental research fund may be used only by the commission for operations [~~the operation~~] and projects under this chapter [~~of the Texas Council on Environmental Technology~~].

(c) Sections 403.095 and 404.071, Government Code, do not apply to the fund. Interest earned on the fund shall be credited to the fund.

SECTION 4.10. Sections 387.009 and 387.010, Health and Safety Code, are amended to read as follows:

Sec. 387.009. ADVISORY COMMITTEES. The commission [~~Texas Council on Environmental Technology~~] may appoint advisory committees as necessary or desirable to assist the commission [~~council~~] in performing its duties under this chapter. An advisory committee may include representatives of industry, environmental groups, consumer groups, local governments, agriculture, the commission, the General Land Office, and the Railroad Commission of Texas. Any senator or representative desiring to do so may participate on any advisory committee appointed under this section. Members of an advisory committee are not entitled to compensation.

Sec. 387.010. REPORTS. (a) Not [~~later than December 1, 2002, and not~~] later than December 1 of each even-numbered [~~subsequent second~~] year, the commission [~~Texas Council on Environmental Technology~~] shall report to the legislature on projects funded under the new technology research and development program, describing the technical objectives and accomplishments of the project and the progress of the project technology toward commercialization. Using sound science, the report shall detail the costs and actual realized benefits of the program and of each project funded under the program.

(b) The commission shall ensure that all research reports under the program are accessible to the public, including, as practicable, through the commission's Internet website.

SECTION 4.11. Section 387.002(c), Health and Safety Code, is repealed.

SECTION 4.12. On the effective date of this Act:

(1) except as otherwise provided by Chapter 387, Health and Safety Code, as amended by this Act, the functions of the Texas Council on Environmental Technology are transferred to the Texas Commission on Environmental Quality, including:

(A) managing of grants approved by the council before the effective date of this Act; and

(B) requesting proposals for grants, reviewing grant applications, and awarding grant contracts;

(2) any contract or other obligation of the council is transferred to the commission; and

(3) the property and records of the council and its predecessor agencies are transferred to the commission.

ARTICLE 5. EQUITABLE USE OF REVENUE AND UNIFORMITY IN RELATION TO SCHOOL DISTRICT PROPERTY VALUES

SECTION 5.01. Section 403.302, Government Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) Notwithstanding Subsection (c), if after conducting the annual study for the year 2002 the comptroller determines that the local value for a school district is invalid and the local value exceeds the state value for the school district determined by the comptroller under Subsections (a) and (b), the taxable value for the school district for that year is the district's state value as established by the comptroller. This subsection expires September 30, 2004.

SECTION 5.02. Section 403.302(m), Government Code, as added by Chapter 1183, Acts of the 78th Legislature, Regular Session, 2003, is repealed.

SECTION 5.03. The commissioner of education shall compute the amount of funding under Chapters 42 and 46, Education Code, to which each school district is entitled for the 2003-2004 school year, and the wealth per student of each school district for purposes of Chapter 41, Education Code, for the 2003-2004 school year, without regard to Chapter 1183, Acts of the 78th Legislature, Regular Session, 2003. If a school district received an underallocation or overallocation of state funds because a payment made before the effective date of this Act was computed in accordance with Chapter 1183, Acts of the 78th Legislature, Regular Session, 2003, the commissioner shall adjust the computation of the amount of the payments made to the school district for the remainder of the 2003-2004 school year or take other action so that the total payments made to that school district for that school year equal the amount the school district would have received for that school year had none of the payments been computed in accordance with Chapter 1183, Acts of the 78th Legislature, Regular Session, 2003.

ARTICLE 6. REPAYMENT OF CASH TRANSFERRED FROM FUNDS OUTSIDE OF STATE TREASURY

SECTION 6.01. For the state fiscal biennium beginning September 1, 2003, the comptroller is appropriated from the general revenue fund the amount needed to return any available cash that was transferred to that fund from a fund outside the state treasury and to maintain the equity of the fund from which the transfer was made, as required by Section 403.092, Government Code, as amended by Section 19, Chapter 1310, Acts of the 78th Legislature, Regular Session, 2003.

SECTION 6.02. Not more than \$5,000,000 of the appropriation made by Section 1 of this Act may be used to allocate earned interest to a fund outside the state treasury under Section 403.092(a), Government Code.

SECTION 6.03. During the state fiscal biennium beginning September 1, 2003, the comptroller shall return available cash that has been transferred from a fund outside the state treasury to a fund within the state treasury under Section 403.092(a), Government Code, together with the earned interest on the transferred amount, to the fund from which the available cash was transferred within 14 days after the date on which the available cash was transferred.

ARTICLE 7. APPROPRIATION OF VETOED FUNDS; CLARIFICATION OF USE OF BUDGET EXECUTION PROCESS FOR STATE FISCAL RELIEF

SECTION 7.01. (a) Section 11.28, Article IX, Chapter 1330, Acts of the 78th Legislature, Regular Session, 2003 (the General Appropriations Act), is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) Notwithstanding other provisions of this Act, based upon the passage of federal legislation that provides federal funds for the purpose of state fiscal relief, such funds are appropriated [~~after the implementation of Section 11.15, Contingency Appropriation Reduction and Contingency Appropriation,~~] to the Comptroller of Public Accounts in the fiscal year in which the funds are received for the purpose of transferring funds to state agencies for state fiscal relief, as directed by the Governor and Legislative Budget Board acting under Chapter 317, Government Code, and in accordance with [~~provided by~~] subsection

(b) of this section.

(c) Notwithstanding Section 11.15(b) of this article, an amount equal to the sum of the General Revenue Fund and general revenue dedicated account appropriations contained in this Act that are vetoed by the Governor under Section 14, Article IV, Texas Constitution, is appropriated out of the General Revenue Fund or appropriate general revenue dedicated account to the Comptroller of Public Accounts for the state fiscal biennium beginning September 1, 2003, for the purpose of transferring funds to state agencies for state fiscal relief, as directed by the Governor and Legislative Budget Board acting under Chapter 317, Government Code, and in accordance with subsection (b) of this section.

(d) This section does not prohibit the Governor and the Legislative Budget Board, acting under Chapter 317, Government Code, from making an emergency transfer of money appropriated by this section, based on need, to an agency or for a purpose that is not described by subsection (b) of this section.

(b) In the event of a conflict between this Act and another Act enacted by the 78th Legislature, 3rd Called Session, 2003, that becomes law and that amends Section 11.28, Article IX, Chapter 1330, Acts of the 78th Legislature, Regular Session, 2003 (the General Appropriations Act), this Act controls.

SECTION 7.02. The heading to Section 11.28, Article IX, Chapter 1330, Acts of the 78th Legislature, Regular Session, 2003 (the General Appropriations Act), is amended to read as follows:

Sec. 11.28. Appropriation of State Fiscal Relief Federal Funds and Reappropriation for State Fiscal Relief of Vetoed General Revenue Appropriations.

ARTICLE 8. REPEAL OF TECHNOLOGY ADVANCEMENT APPROPRIATION TO SUPREME COURT OF TEXAS

SECTION 8.01. Rider 5 following the appropriation to the Supreme Court of Texas on page IV-2, Chapter 1330, Acts of the 78th Legislature, Regular Session, 2003 (the General Appropriations Act), is repealed.

ARTICLE 9. EFFECTIVE DATE

SECTION 9.01. This Act takes effect immediately if it 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 Act takes effect on the 91st day after the last day of the legislative session.

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