

By: Ogden

S.B. No. 2

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the organization, board membership, and functions of  
3 certain governmental agencies and to the transfer of certain  
4 functions to other governmental agencies.

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

6 ARTICLE 1. TELECONFERENCE MEETING OF LEGISLATIVE BUDGET BOARD

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

9 (d) As an exception to Chapter 551 and other law, if the  
10 chairman and vice-chairman of the board are physically present at a  
11 meeting, then any number of the other members of the board may  
12 attend a meeting of the board by use of telephone conference call,  
13 video conference call, or other similar telecommunication device.  
14 This subsection applies for purposes of constituting a quorum, for  
15 purposes of voting, and for any other purpose allowing a member of  
16 the board to otherwise fully participate in any meeting of the  
17 board. This subsection applies without exception with regard to  
18 the subject of the meeting or topics considered by the members.

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

21 (1) is subject to the notice requirements applicable  
22 to other meetings;

23 (2) must specify in the notice of the meeting the  
24 location of the meeting;

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

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

6           ARTICLE 2. GOVERNOR'S BUDGET AUTHORITY

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

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

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15 repealed.

16          ARTICLE 3. ABANDONMENT OF PROCEEDS ON DEMUTUALIZATION

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

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

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

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

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

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

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

15 ARTICLE 4. MEMBERS OF TEXAS VETERANS COMMISSION

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

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

23 ARTICLE 5. COMMISSIONER OF INSURANCE

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

26 Sec. 31.023. QUALIFICATIONS. The commissioner must:

27 (1) be a competent and experienced administrator;

1           (2) be well informed and qualified in the field of  
2 insurance and insurance regulation; and

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

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

15                           ARTICLE 6. PARDONS AND PAROLES

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

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

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

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

27           (a) The board consists of seven [~~18~~] members appointed by

1 the governor with the advice and consent of the senate.

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

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

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

9 (2) is ineligible for membership under Section  
10 508.033;

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

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

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

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

1           (c) [~~(d)~~] The validity of an action of[+  
2                            [~~(1)~~] the board or panel is not affected by the fact  
3 that the action is taken when a ground for removal of a board member  
4 exists[~~, and~~  
5                            [~~(2)~~ the policy board is not affected by the fact that  
6 the action is taken when a ground for removal of a member of the  
7 policy board exists].

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

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

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

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

25           (d) The presiding officer may:  
26                           (1) delegate responsibilities and authority to other  
27 members of the board, to parole commissioners, or to employees of

1 the board;

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

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

7 SECTION 6.05. Section 508.036, Government Code, as amended  
8 by Section 31.01, Chapter 1170, Acts of the 78th Legislature,  
9 Regular Session, 2003, is amended to read as follows:

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

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

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

25 (1) develop and implement policies that clearly  
26 separate the policy-making responsibilities of the board and the  
27 management responsibilities of the board administrator, parole

1 commissioners, and the staff of the board [~~adopt rules relating to~~  
2 ~~the decision-making processes used by the board and parole panels~~];

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

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

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

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

24 (b) The board shall:

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

27 (2) prepare information of public interest describing



1 the functions of the board and make the information available to the  
2 public and appropriate state agencies;

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

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

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

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

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

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

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

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

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

9                   (2) the programs operated by the board;

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

12                   (4) the rules of the board;

13                   (5) the current budget for the board;

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

16                   (7) the requirements of the:

17                           (A) open meetings law, Chapter 551;

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

19                           (C) administrative procedure law, Chapter 2001;

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

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

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

1 program occurs before or after the person qualifies for office.

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

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

6 (1) parole commissioners;

7 (2) a general counsel to the board;

8 (3) [~~(2)~~] a board administrator to manage the  
9 day-to-day activities of the board;

10 (4) [~~(3)~~] hearing officers;

11 (5) [~~(4)~~] personnel to assist in clemency and hearing  
12 matters; and

13 (6) [~~(5)~~] secretarial or clerical personnel.

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

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

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

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

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

1 (1) descriptions of decisions in previous hearings  
2 determined by the [~~policy~~] board to have value as precedents for  
3 decisions in subsequent hearings;

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

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

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

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

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

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

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

1 board member completed the program.

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

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

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

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

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

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

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

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

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

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

26 (1) a parole decision; or

27 (2) a decision to revoke parole or mandatory

1 supervision.

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

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

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

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

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

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

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

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

21 (1) release on parole;

22 (2) release to mandatory supervision; and

23 (3) revocation of parole or mandatory supervision.

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

1 SECTION 6.12. Subsection (a), Section 508.047, Government  
2 Code, is amended to read as follows:

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

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

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

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

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

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

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

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

27 (A) a member of the board or a parole

1 commissioner;

2 (B) an employee of the board; or

3 (C) an employee of the department.

4 SECTION 6.15. Subsection (g), Section 508.141, Government  
5 Code, as added by Chapter 349, Acts of the 78th Legislature, Regular  
6 Session, 2003, is amended to read as follows:

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

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

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

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

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



1 SECTION 6.17. Subsection (b), Section 508.153, Government  
2 Code, is amended to read as follows:

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

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

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

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

19 (2) is arrested after an ineligible release.

20 SECTION 6.19. Subsection (c), Section 508.313, Government  
21 Code, as amended by Section 3, Chapter 6, Acts of the 78th  
22 Legislature, Regular Session, 2003, is amended to read as follows:

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

26 (1) the governor;

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

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

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

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

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

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

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

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

1 2005, two to serve terms expiring February 1, 2007, and three to  
2 serve terms expiring February 1, 2009. On the expiration of the  
3 terms of the initial members of the new board, the term of a member  
4 appointed by the governor is six years.

5 (c) On the effective date of this article, a rule of the  
6 Board of Pardons and Paroles Policy Board is a rule of the Board of  
7 Pardons and Paroles.

8 ARTICLE 7. DESIGNATION OF PRESIDING OFFICERS

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

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

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

18 (2) a river authority as defined by Section 30.003,  
19 Water Code.

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

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

1 the presiding officer a member who has not yet been confirmed by the  
2 senate but who is subject to senate confirmation.

3 (d) This section does not apply to:

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

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

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

11 (4) a river authority whose governing body is elected;  
12 or

13 (5) a junior college district.

14 ARTICLE 8. REPORTS

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

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

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

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

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

27 (4) make recommendations for encouraging and

1 achieving a greater degree of waste minimization and waste reuse or  
2 recycling in the geographic area covered by the plan;

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

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

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

15 (8) establish recycling rate goals appropriate to the  
16 area covered by the plan;

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

19 (A) creation and use of community composting  
20 centers;

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

24 (C) development and promotion of education  
25 programs on home composting, community composting, and the  
26 separation of yard waste for use as mulch;

27 (10) include an inventory of municipal solid waste

1 landfill units, including:

2 (A) landfill units no longer in operation;

3 (B) the exact boundaries of each former landfill  
4 unit or, if the exact boundaries are not known, the best  
5 approximation of each unit's boundaries;

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

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

10 (E) the current use of the land;

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

12 and

13 (12) include a public education program[~~; and~~

14 [~~(13) include waste reduction in accordance with the~~  
15 ~~goal established under Section 361.0201(d), to the extent that~~  
16 ~~funds are available].~~

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

19 Sec. 5.178. ANNUAL REPORTS; BIENNIAL APPENDICES  
20 [~~APPENDIXES~~].

21 SECTION 8.03. Subsection (b), Section 5.178, Water Code, is  
22 amended to read as follows:

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

25 (1) the commission's recommendations for necessary and  
26 desirable legislation; and

27 (2) the following reports:

1 (A) the assessments and reports required by  
2 Section [~~Sections~~] 361.0219(c) [~~, 361.0232, 361.510, 371.063, and~~  
3 ~~382.141~~], Health and Safety Code;

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

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

9 SECTION 8.04. (a) Sections 361.020, 361.0201, 361.0232,  
10 361.0233, 361.0234, Subsection (d), Section 361.040, Subsection  
11 (c), Section 361.0871, and Sections 361.510, 371.063, 382.141,  
12 Health and Safety Code, are repealed.

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

14 ARTICLE 9. PERMITS OF THE TEXAS COMMISSION ON ENVIRONMENTAL  
15 QUALITY

16 SECTION 9.01. (a) It is the policy of this state to be  
17 effective and efficient with public funds, to provide for effective  
18 and efficient management of natural resources, and to serve the  
19 people of Texas by making the government more visible, accessible,  
20 coherent, consistent, and accountable to the people of Texas. The  
21 legislature finds that the Texas Commission on Environmental  
22 Quality's procedures for processing permits is cumbersome,  
23 confusing, lengthy, and inefficient for citizens, business,  
24 political subdivisions, and the commission.

25 (b) The Texas Commission on Environmental Quality's  
26 permitting processes warrant, and the legislature directs, an  
27 in-depth evaluation, including the identification of problems,

1 potential options, and solutions. The evaluation must solicit and  
2 consider input from all stakeholders, including public hearings and  
3 the opportunity for submission of written and oral comments. The  
4 solutions identified in the final assessment of the commission's  
5 permitting processes must ensure that:

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

8 (2) the commission's permitting processes are  
9 streamlined;

10 (3) the commission's permitting processes are  
11 user-friendly to citizens and promote sound economic development;  
12 and

13 (4) all stakeholder concerns are considered.

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

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

25 ARTICLE 10. ORGANIZATION OF CERTAIN STATE AGENCIES; TRANSFER OF  
26 CERTAIN FUNCTIONS

27 SECTION 10.01. Section 322.003, Government Code, is amended



1 by amending Subsections (a) and (b) and adding Subsection (d) to  
2 read as follows:

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

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

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

13 SECTION 10.02. Subsection (a), Section 322.004, Government  
14 Code, is amended to read as follows:

15 (a) The board shall appoint a director to serve at the  
16 pleasure of the board. The appointment of the director must be  
17 approved by a majority vote of the members of the board from each  
18 house of the legislature. For purposes of this subsection, the  
19 lieutenant governor is considered to be a member of the board from  
20 the senate. The director is accountable only to the board.

21 SECTION 10.03. Sections 322.001 through 322.014,  
22 Government Code, are designated as Subchapter A, Chapter 322,  
23 Government Code, and a heading to that subchapter is added to read  
24 as follows:

25 SUBCHAPTER A. GENERAL PROVISIONS

26 SECTION 10.04. Subchapter A, Chapter 322, Government Code,  
27 as designated by this Act, is amended by adding Sections 322.015

1 through 322.020 to read as follows:

2 Sec. 322.015. REVIEW OF INTERSCHOLASTIC COMPETITION. The  
3 board may periodically review and analyze the effectiveness and  
4 efficiency of the policies, management, fiscal affairs, and  
5 operations of an organization that is a component or part of a state  
6 agency or institution and that sanctions or conducts  
7 interscholastic competition. The board shall report the findings  
8 to the governor and the legislature. The legislature may consider  
9 the board's reports in connection with the legislative  
10 appropriations process.

11 Sec. 322.016. PERFORMANCE REVIEW OF SCHOOL DISTRICTS. (a)  
12 The board may periodically review the effectiveness and efficiency  
13 of the operations of school districts. A review of a school  
14 district may be initiated by the board at its discretion or on the  
15 request of the school district. A review may be initiated by a  
16 school district only by resolution adopted by a majority of the  
17 members of the board of trustees of the district.

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

21 (c) The board shall:

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

24 (2) file the report with the school district, the  
25 governor, the lieutenant governor, the speaker of the house of  
26 representatives, the chairs of the standing committees of the  
27 senate and the house of representatives with jurisdiction over

1 public education, and the commissioner of education; and

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

4 Sec. 322.017. EFFICIENCY REVIEW OF STATE AGENCIES. (a) The  
5 board periodically may review and analyze the effectiveness and  
6 efficiency of the policies, management, fiscal affairs, and  
7 operations of state agencies.

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

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

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

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

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

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

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

24 Sec. 322.019. CERTAIN DUTIES. The director shall create a  
25 policy council division to perform policy analysis and related  
26 empirical analysis and research at the direction of the board  
27 regarding issues and matters identified by the board that may

1 affect state revenue or appropriations or that may be the subject of  
2 legislation or proposed amendments to the Texas Constitution.

3 Sec. 322.020. AGENCY COOPERATION. Each state agency in any  
4 branch of state government shall cooperate with the board in  
5 providing the board with the information the board requires to  
6 perform its duties under Section 322.019.

7 SECTION 10.05. Subsection (b), Section 323.001, Government  
8 Code, as amended by Chapter 1328, Acts of the 78th Legislature,  
9 Regular Session, 2003, is amended to read as follows:

10 (b) The council consists of:

11 (1) the lieutenant governor;

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

13 (3) the chairman of the house administration  
14 committee;

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

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

20 SECTION 10.06. Subsection (c), Section 323.001, Government  
21 Code, is amended to read as follows:

22 (c) The speaker of the house of representatives [~~lieutenant~~  
23 ~~governor~~] is the chairman of the council and the lieutenant  
24 governor [~~speaker~~] is the vice-chairman.

25 SECTION 10.07. Chapter 323, Government Code, is amended by  
26 adding Section 323.002 to read as follows:

27 Sec. 323.002. EXECUTIVE DIRECTOR. The council shall

1 appoint an executive director to serve at the will of the council.  
2 The appointment of the executive director must be approved by a  
3 majority vote of the members of the council from each house of the  
4 legislature. For purposes of this section, the lieutenant governor  
5 is considered to be a member of the council from the senate.

6 SECTION 10.08. Subsections (a) and (b), Section 323.003,  
7 Government Code, are amended to read as follows:

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

11 (b) A majority of the [Twelve] members of the council from  
12 each house of the legislature constitutes [~~including the chairman~~  
13 ~~and vice-chairman constitute~~] a quorum. If a quorum is present, the  
14 council may act on any matter that is within its jurisdiction by a  
15 majority vote, except as provided by Section 323.002. For purposes  
16 of this subsection, the lieutenant governor is considered to be a  
17 member of the council from the senate.

18 SECTION 10.09. Subsections (a), (d), and (j), Section  
19 325.003, Government Code, are amended to read as follows:

20 (a) The Sunset Advisory Commission consists of five [~~four~~]  
21 members of the senate and one public member appointed by the  
22 lieutenant governor and five [~~four~~] members of the house of  
23 representatives and one public member appointed by the speaker of  
24 the house. Each appointing authority may designate himself as one  
25 of the legislative appointees.

26 (d) Legislative members serve four-year terms, with terms  
27 staggered so that the terms of as near to one-half of the

1 legislative members appointed by the lieutenant governor as  
2 possible and the terms of as near to one-half of the legislative  
3 members appointed by the speaker as possible expire September 1 of  
4 each odd-numbered year. If the lieutenant governor or the speaker  
5 serves on the commission, he continues to serve until resignation  
6 from the commission or until he ceases to hold the office. Public  
7 members serve two-year terms expiring September 1 of each  
8 odd-numbered year.

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

13 SECTION 10.10. The following laws are repealed:

- 14 (1) Section 403.020, Government Code;  
15 (2) Section 403.0205, Government Code;  
16 (3) Section 403.022, Government Code; and  
17 (4) Section 403.024, Government Code.

18 SECTION 10.11. If, on the effective date of this article,  
19 more than four members of the house of representatives appointed  
20 under Subdivision (5), Subsection (b), Section 323.001, Government  
21 Code, are serving as members of the Texas Legislative Council:

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

24 (2) the speaker of the house of representatives, as  
25 soon as possible after the effective date of this article, shall  
26 appoint four members of the house to serve as members of the Texas  
27 Legislative Council under Subdivision (5), Subsection (b), Section

1 323.001, Government Code, as amended by this article.

2 SECTION 10.12. The lieutenant governor and the speaker of  
3 the house of representatives, as soon as possible after the  
4 effective date of this article, shall appoint a member of the senate  
5 or the house of representatives, respectively, to serve initial  
6 terms on the Sunset Advisory Commission under Section 325.003,  
7 Government Code, as amended by this article, expiring September 1,  
8 2005.

9 SECTION 10.13. On the effective date of this article:

10 (1) all records and other property of the comptroller  
11 of public accounts that relate to a review of interscholastic  
12 competition, a performance review of school districts, an  
13 efficiency review of a state agency, or a records management review  
14 are transferred to the Legislative Budget Board;

15 (2) all unexpended and unobligated appropriations of  
16 the comptroller of public accounts relating to the comptroller's  
17 review of interscholastic competition, performance review of  
18 school districts, efficiency review of a state agency, or records  
19 management review are transferred to the Legislative Budget Board;

20 (3) all employees of the comptroller of public  
21 accounts whose primary functions relate to the review of  
22 interscholastic competition, performance review of school  
23 districts, efficiency review of state agencies, or records  
24 management review become employees of the Legislative Budget Board;  
25 and

26 (4) any reference in law to the comptroller of public  
27 accounts that relates to the review of interscholastic competition,

1 performance review of school districts, efficiency review of state  
2 agencies, or records management review means the Legislative Budget  
3 Board.

4 ARTICLE 11. UNCLAIMED PROPERTY

5 SECTION 11.01. Subsection (a), Section 72.101, Property  
6 Code, is amended to read as follows:

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

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

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

16 SECTION 11.02. Subchapter B, Chapter 72, Property Code, is  
17 amended by adding Section 72.1015 to read as follows:

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

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

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

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

27 SECTION 11.03. Subsection (a), Section 74.001, Property



1 Code, as amended by Chapter 465, Acts of the 78th Legislature,  
2 Regular Session, 2003, is amended to read as follows:

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

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

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

8 SECTION 11.04. Subsection (a), Section 74.101, Property  
9 Code, as amended by Chapter 465, Acts of the 78th Legislature,  
10 Regular Session, 2003, is amended to read as follows:

11 (a) Each holder who on June 30 holds property that is  
12 presumed abandoned under Chapter 72, 73, or 75 of this code or  
13 under[~~7~~] Chapter 154, Finance Code, [~~or Subchapter G, Chapter 61,~~  
14 ~~Labor Code,~~] shall file a report of that property on or before the  
15 following November 1. The comptroller may require the report to be  
16 in a particular format, including a format that can be read by a  
17 computer.

18 SECTION 11.05. Subsection (a), Section 74.301, Property  
19 Code, as amended by Chapter 465, Acts of the 78th Legislature,  
20 Regular Session, 2003, is amended to read as follows:

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

27 SECTION 11.06. Subchapter G, Chapter 61, Labor Code, as

1 added by Chapter 465, Acts of the 78th Legislature, Regular  
2 Session, 2003, is repealed.

3 SECTION 11.07. This article takes effect immediately if  
4 this Act receives a vote of two-thirds of all the members elected to  
5 each house, as provided by Section 39, Article III, Texas  
6 Constitution. If this Act does not receive the vote necessary for  
7 immediate effect, this article takes effect on the 91st day after  
8 the last day of the legislative session.

9 ARTICLE 12. TRANSFER AND USE OF CERTAIN REAL PROPERTY

10 SECTION 12.01. Section 4, Chapter 38, General Laws, Acts of  
11 the 35th Legislature, Regular Session, 1917, is amended to read as  
12 follows:

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

1 a purpose other than a purpose described by Section 2 of this Act,  
2 the aggregate of those portions of said property may not exceed  
3 one-tenth of one acre.

4 ARTICLE 13. CERTAIN GOVERNMENTAL CONTRACTS TO BE PERFORMED

5 IN NONATTAINMENT AREAS FOR NATIONAL AMBIENT AIR QUALITY STANDARDS

6 SECTION 13.01. Subsection (a), Section 2155.451,  
7 Government Code, as added by Section 19, Chapter 1331, Acts of the  
8 78th Legislature, Regular Session, 2003, is amended to read as  
9 follows:

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

14 SECTION 13.02. Subsection (b), Section 271.907, Local  
15 Government Code, as added by Section 20, Chapter 1331, Acts of the  
16 78th Legislature, Regular Session, 2003, is amended to read as  
17 follows:

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

22 SECTION 13.03. This article takes effect immediately if  
23 this Act receives a vote of two-thirds of all the members elected to  
24 each house, as provided by Section 39, Article III, Texas  
25 Constitution. If this Act does not receive the vote necessary for  
26 immediate effect, this article takes effect on the 91st day after  
27 the last day of the legislative session.

1 ARTICLE 14. TEXAS COUNTY AND DISTRICT RETIREMENT SYSTEM ASSETS

2 SECTION 14.01. Subsection (a), Section 845.301, Government  
3 Code, as amended by Chapter 1103, Acts of the 78th Legislature,  
4 Regular Session, 2003, is amended to read as follows:

5 (a) The assets of the retirement system shall be invested  
6 and reinvested without distinction as to their source in accordance  
7 with Section 67, Article XVI, Texas Constitution. For purposes of  
8 the investment authority of the board of trustees under Section 67,  
9 Article XVI, Texas Constitution, "securities" means any investment  
10 instrument within the meaning of the term as defined by Section 4,  
11 The Securities Act (Article 581-4, Vernon's Texas Civil Statutes),  
12 15 U.S.C. Section 77b(a)(1), or 15 U.S.C. Section 78c(a)(10).  
13 Investment decisions are subject to the standard provided in the  
14 Texas Trust Code by Section 117.004(b) [~~Sections 117.004(a)-(c)~~],  
15 Property Code.

16 ARTICLE 15. PARTICIPATION OF CERTAIN GOVERNMENTAL RETIREES

17 IN CERTAIN GROUP BENEFIT PLANS

18 SECTION 15.01. Section 1551.102, Insurance Code, is amended  
19 by adding Subsection (i) to read as follows:

20 (i) Subject to Section 1551.323, an individual and the  
21 individual's dependents are eligible to participate in the group  
22 benefits program as an annuitant and the dependents of an annuitant  
23 if the individual:

24 (1) served in a position for which the individual was  
25 eligible to participate in the group benefits program under Section  
26 1551.101 on or before August 31, 2003; and

27 (2) at the time of retirement meets the requirements

1 for eligibility for participation in the program as an annuitant as  
2 those requirements existed on August 31, 2003.

3 SECTION 15.02. Section 1551.111, Insurance Code, is amended  
4 by adding Subsection (e) to read as follows:

5 (e) Subject to Section 1551.323, an individual and the  
6 individual's dependents are eligible to participate in the group  
7 benefits program as an annuitant and the dependents of an annuitant  
8 as described under this section if the individual:

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

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

14 SECTION 15.03. Section 1551.112, Insurance Code, is amended  
15 by adding Subsection (c) to read as follows:

16 (c) Subject to Section 1551.323, an individual and the  
17 individual's dependents are eligible to participate in the group  
18 benefits program as an annuitant and the dependents of an annuitant  
19 as described under this section if the individual:

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

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

25 SECTION 15.04. Subchapter G, Chapter 1551, Insurance Code,  
26 is amended by adding Section 1551.323 to read as follows:

27 Sec. 1551.323. COST OF CERTAIN ANNUITANTS. (a) An

1 annuitant eligible to participate under Section 1551.102(i),  
2 1551.111(e), or 1551.112(c) is, except as provided by this  
3 subsection, required to pay the total cost, as determined by the  
4 board, attributable to the participation of that individual and the  
5 dependents of that individual until the date the individual is 65  
6 years of age. If the General Appropriations Act or other similar  
7 legislation addresses the payment of those costs, those costs shall  
8 be paid in the manner specified by that legislation.

9 (b) This section applies only to an individual who is  
10 eligible to participate as an annuitant under Section 1551.102(i),  
11 1551.111(e), or 1551.112(c) and who is not eligible to participate  
12 under another provision of Section 1551.102, 1551.111, or 1551.112.

13 SECTION 15.05. Section 1575.004, Insurance Code, as amended  
14 by Chapter 1231, Chapter 201, and Chapter 1276, Acts of the 78th  
15 Legislature, Regular Session, 2003, is reenacted and amended to  
16 read as follows:

17 Sec. 1575.004. DEFINITION OF RETIREE. (a) In this chapter,  
18 "retiree" means:

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

21 (A) is at least 65 years of age and has taken a  
22 service retirement under the Teacher Retirement System of Texas  
23 with at least 10 years of service credit in the system for actual  
24 service in public schools in this state; [~~or~~]

25 (B) was employed in actual service in public  
26 schools in this state during or before the 2003-2004 school year and  
27 at the time of retirement meets the requirements for eligibility as

1 a retiree as those requirements existed on August 31, 2004; or

2 (C) has taken a service retirement under the  
3 Teacher Retirement System of Texas and who has at least 10 years of  
4 service credit for actual public service in the public schools in  
5 this state or has at least five years of service credit for actual  
6 public service in the public schools in this state and has five  
7 years of military service credited in the Teacher Retirement System  
8 of Texas, and the sum of the individual's age and amount of service  
9 credit earned for service in the public schools of this state equals  
10 or exceeds the number 80; or

11 (2) an individual who:

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

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

16 (b) In this section, "public school" has the meaning  
17 assigned by Section 821.001, Government Code.

18 SECTION 15.06. Section 1575.211, Insurance Code, as added  
19 by Chapter 1231 and Chapter 201, Acts of the 78th Legislature,  
20 Regular Session, 2003, is amended by adding Subsection (c) to read  
21 as follows:

22 (c) A retiree eligible to participate under Section  
23 1575.004(a)(1)(B) is, except as provided by this subsection,  
24 required to pay the total cost, as determined by the trustee,  
25 attributable to the participation of that individual and the  
26 dependents of that individual until the date the individual is 65  
27 years of age. The General Appropriations Act or other similar

1 legislation may specify a different allocation of total costs for  
2 retirees eligible to participate under Section 1575.004(a)(1)(B)  
3 and the dependents of those retirees. This subsection applies only  
4 to an individual who is eligible to participate as an annuitant  
5 under Section 1575.004(a)(1)(B) and who is not eligible to  
6 participate under another provision of Section 1575.004.

7 SECTION 15.07. Section 1575.163, Insurance Code, as added  
8 by Chapter 201, Acts of the 78th Legislature, Regular Session,  
9 2003, is repealed.

10 SECTION 15.08. (a) Except as otherwise provided by this  
11 section, this article takes effect immediately if this Act receives  
12 a vote of two-thirds of all the members elected to each house, as  
13 provided by Section 39, Article III, Texas Constitution. If this  
14 Act does not receive the vote necessary for immediate effect, this  
15 article takes effect on the 91st day after the last day of the  
16 legislative session.

17 (b) Sections 15.05 and 15.06 of this article take effect  
18 September 1, 2004.

19 ARTICLE 16. ENERGY AND WATER CONSERVATION BY STATE AGENCIES

20 SECTION 16.01. Chapter 447, Government Code, is amended by  
21 adding Sections 447.010 and 447.011 to read as follows:

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

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



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

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

6                   (B) fuel additive registered in accordance with  
7 40 C.F.R. Part 79 that contains no known mutagenic materials and  
8 that has been proven to reduce fuel consumption per mile or per hour  
9 of operation by at least five percent; or

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

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

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

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

21                   (B) a fuel economy test performed in accordance  
22 with protocols and at testing laboratories or facilities recognized  
23 by the state energy conservation office, the Texas Commission on  
24 Environmental Quality, or the United States Environmental  
25 Protection Agency; or

26                   (C) a field demonstration performed in  
27 accordance with Section 447.011.

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

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

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

12               (1) is known to increase engine emissions above the  
13 levels established by the United States Environmental Protection  
14 Agency;

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

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

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

21       (f) A state agency shall evaluate similar fuel-saving  
22 technologies competitively.

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

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

5       (i) A state agency may establish a program for agency  
6 employees voluntarily to:

7             (1) purchase fuel-saving technologies; and

8             (2) document reductions in fuel savings and air  
9 emissions.

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

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

20       (b) The Texas Department of Transportation shall select  
21 varying ages and types of motor vehicles and non-road diesels to  
22 demonstrate the fuel-saving technologies and shall give a  
23 preference to high-use motor vehicles and non-road diesels in the  
24 selection.

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

27             (1) assessing a technology's performance in the normal

1 course of operations of motor vehicles or non-road diesels; and

2 (2) performing controlled field tests.

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

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

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

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

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

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

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

1           (1) list recommended applications of the  
2 technologies;

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

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

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

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

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

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

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

24           (m) Money from the state highway fund may not be used for the  
25 purchase, installation, maintenance, or operation of the  
26 fuel-saving technologies being assessed or subjected to controlled  
27 field tests under this section. Repairs to state equipment

1 resulting from demonstrations of fuel-saving technologies must be  
2 paid from the same funds used to implement this section.

3 SECTION 16.02. Chapter 2113, Government Code, is amended by  
4 adding Subchapter E to read as follows:

5 SUBCHAPTER E. RESTRICTIONS ON CAPITAL EXPENDITURES

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

8 (a) In this section:

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

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

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

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

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

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

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

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

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

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

18               (1) prevent a hazard to life, health, safety, welfare,  
19 or property; or

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

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





1 processing, storage, or disposal facility or site permitted or  
2 authorized for that purpose.

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

7 (c) The rules must require that aggregate amounts of waste  
8 recorded on the manifests required under this section match the  
9 amounts of waste reported to the commission annually. The  
10 commission may require copies of manifests to be submitted with  
11 reports to the commission or at other times.

12 SECTION 18.02. The Texas Commission on Environmental  
13 Quality shall adopt rules under Section 361.034, Health and Safety  
14 Code, as added by this article, as soon as practicable so that the  
15 rules take effect not later than March 1, 2004.

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

22 ARTICLE 19. PARTICIPATION IN STATE EMPLOYEE CHARITABLE CAMPAIGN

23 SECTION 19.01. Any federation or organization that has  
24 heretofore participated in the state employee charitable campaign  
25 authorized by Subchapter I, Chapter 659, Government Code, shall not  
26 be barred from participation in the program, both in terms of actual  
27 participation and the purposes for which the contributions are

1 used, as a result of changes made in the law by Sections 35, 36, 37,  
2 and 121, Chapter 1310, Acts of the 78th Legislature, Regular  
3 Session, 2003.

4 ARTICLE 20. CONDEMNATION PROCEEDINGS

5 SECTION 20.01. Subchapter A, Chapter 25, Government Code,  
6 is amended by adding Section 25.0020 to read as follows:

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

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

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

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

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

23 ARTICLE 21. CERTAIN AGREEMENTS OF THE

24 TEXAS DEPARTMENT OF TRANSPORTATION

25 SECTION 21.01. Subchapter C, Chapter 201, Transportation  
26 Code, is amended by adding Section 201.1055 to read as follows:

27 Sec. 201.1055. AGREEMENTS WITH PRIVATE ENTITIES.

1 Notwithstanding any other law, including Subchapter A, Chapter  
2 2254, Government Code, Chapters 2165, 2166, and 2167, Government  
3 Code, and Sections 202.052, 202.053, 203.051, 203.052, and 223.001  
4 of this code, the department and a private entity that offers the  
5 best value to the state may enter into an agreement that includes:

6 (1) both design and construction of a district office  
7 headquarters facility located in a county with a population of 3.3  
8 million or more;

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

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

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

19 ARTICLE 22. ALCOHOLIC BEVERAGE REGULATION

20 SECTION 22.01. Section 105.07(b), Alcoholic Beverage Code,  
21 as added by Chapter 946, Acts of the 78th Legislature, Regular  
22 Session, 2003, is amended to read as follows:

23 (b) Notwithstanding any other provision of this code, in  
24 addition to any other period during which the sale and consumption  
25 of alcohol is authorized under this code:

26 (1) a licensed or permitted premises located in a  
27 sports venue may sell alcoholic beverages between 10 a.m. and noon;

1           ~~[(2) a licensed or permitted premises located in a~~  
2 ~~public entertainment facility that has provisions for overnight~~  
3 ~~camping may allow a person to bring an alcoholic beverage onto the~~  
4 ~~premises, consume the beverage on the premises, and remove the~~  
5 ~~beverage from the premises,] and~~

6           (2) ~~[(3)]~~ a person may consume alcoholic beverages at  
7 a sports venue between 10 a.m. and noon.

8       ARTICLE 23. APPROPRIATIONS TO TEXAS DEPARTMENT OF PUBLIC SAFETY

9           SECTION 23.01. Section 12.03, Article IX, Chapter 1330,  
10 Acts of the 78th Legislature, Regular Session, 2003 (the General  
11 Appropriations Act), is amended by adding Subsection (e) to read as  
12 follows:

13           (e) Regardless of the date on which an employee described by  
14 this subsection retires, the appropriation of the Department of  
15 Public Safety for fiscal year 2004 or 2005 may not be reduced under  
16 Subsection (a) of this section as the result of the retirement of a  
17 Department of Public Safety employee who is a commissioned peace  
18 officer and who retires as provided by Section 814.1051, Government  
19 Code, as added by Chapter 735, Acts of the 78th Legislature, Regular  
20 Session, 2003. The Department of Public Safety may use money that  
21 would otherwise have been reduced under Subsection (a) of this  
22 section only to comply with Rider 39 following the appropriation to  
23 the department. Lump-sum retirement incentive payments for  
24 employees of the Department of Public Safety who are commissioned  
25 peace officers and who retire as provided by Section 814.1051,  
26 Government Code, shall be paid in accordance with Subsections  
27 (b)(1) and (c) of this section.

1                   ARTICLE 24.   EFFECTIVE DATE

2                   SECTION 24.01.   Except as otherwise provided by this Act,  
3   this Act takes effect on the 91st day after the last day of the  
4   legislative session.