

By: Elkins

H.B. No. 2376

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the correction or removal from the statutes of obsolete
3 references regarding the surety bonds of state officers and
4 employees.

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

6 SECTION 1. Section 11.007(b), Agriculture Code, is amended
7 to read as follows:

8 (b) The deputy commissioner shall take the oath of office
9 required of the commissioner [~~and shall execute a bond with two or
10 more sureties in the amount of \$3,000 payable to the state and
11 conditioned on the faithful performance of the duties of the
12 office. The bond is subject to approval by the governor~~].

13 SECTION 2. Section 5.11, Alcoholic Beverage Code, is
14 amended to read as follows:

15 Sec. 5.11. ADMINISTRATOR. The commission shall appoint an
16 administrator to serve at its will and, subject to its supervision,
17 administer this code. Unless the commission orders otherwise, the
18 administrator shall be manager, secretary, and custodian of all
19 records. The administrator shall devote his entire time to the
20 office and shall receive a salary as appropriated by the
21 legislature. [~~The administrator shall execute a bond in the sum of
22 \$10,000, payable to the state, and conditioned as the commission
23 requires.~~]

24 SECTION 3. Section 5.13, Alcoholic Beverage Code, is

1 amended to read as follows:

2 Sec. 5.13. ASSISTANT ADMINISTRATOR. The administrator
3 shall appoint an assistant administrator. The assistant
4 administrator must meet the same qualifications as the
5 administrator. The assistant administrator shall take the
6 constitutional oath of office [~~and make a bond in the same amount
7 and on the same conditions as the administrator's bond~~]. In the
8 absence of the administrator, or in case of his inability to act,
9 the assistant administrator shall perform the duties conferred on
10 the administrator by law or delegated to the administrator by the
11 commission. If there is a vacancy in the office of administrator,
12 the assistant administrator shall perform the duties of the
13 administrator until an administrator has been appointed by the
14 commission. At other times he shall perform those duties and have
15 those functions, powers, and authority as may be delegated to him by
16 the administrator.

17 SECTION 4. Section 5.14, Alcoholic Beverage Code, is
18 amended to read as follows:

19 Sec. 5.14. INSPECTORS AND REPRESENTATIVES. The commission
20 or administrator may commission as many inspectors and
21 representatives as are necessary to enforce this code and other
22 laws administered by the commission. Each inspector and
23 representative shall take the constitutional oath of office, which
24 shall be filed in the office of the commission. Each commissioned
25 inspector and representative has all the powers of a peace officer
26 coextensive with the boundaries of the state. [~~Each commissioned
27 inspector and representative shall make and execute a bond as~~

1 ~~required by the commission.]~~

2 SECTION 5. Section 51.203(d), Education Code, is amended to
3 read as follows:

4 (d) Any officer assigned to duty and commissioned shall take
5 and file the oath required of peace officers [~~, and shall execute and~~
6 ~~file a good and sufficient bond in the sum of \$1,000, payable to the~~
7 ~~governor and his successors in office, with two or more good and~~
8 ~~sufficient sureties, conditioned that he will fairly, impartially,~~
9 ~~and faithfully perform all the duties that may be required of him by~~
10 ~~law. The bond may be sued on from time to time in the name of any~~
11 ~~person injured until the whole amount of the bond is recovered].~~

12 SECTION 6. Section 88.103, Education Code, is amended to
13 read as follows:

14 Sec. 88.103. ENFORCEMENT; APPOINTMENT OF PEACE OFFICERS.
15 The director may appoint not to exceed 25 employees of the Texas
16 Forest Service who are certified by the Commission on Law
17 Enforcement Officer Standards and Education as qualified to be
18 peace officers to serve as peace officers under his direction in
19 executing the enforcement duties of that agency. The appointments
20 must be approved by the board which shall commission the appointees
21 as peace officers. Any officer commissioned under this section is
22 vested with all the powers, privileges, and immunities of peace
23 officers in the performance of his duties. The officer shall take
24 the oath required of peace officers [~~and shall execute a good and~~
25 ~~sufficient bond in the sum of \$5,000, payable to the governor and~~
26 ~~his successors in office, with two or more good and sufficient~~
27 ~~personal sureties or with one corporate surety authorized to do~~

1 ~~business in Texas, conditioned that he will fairly, impartially,~~
2 ~~and faithfully perform all the duties that may be required of him by~~
3 ~~law. The bond may be sued on in the name of any person injured until~~
4 ~~the whole amount of the bond is recovered].~~

5 SECTION 7. Section 14.054, Finance Code, is amended to read
6 as follows:

7 Sec. 14.054. OATH OF OFFICE [~~+~~ BOND]. [~~(a)~~] Before assuming
8 the duties of office, the commissioner and each assistant
9 commissioner, examiner, and other employee of the office must take
10 an oath of office [~~and post a fidelity bond.~~

11 [~~(b) The bond must be:~~

12 [~~(1) in the amount of \$10,000;~~

13 [~~(2) payable to the finance commission or its~~
14 ~~successor in office;~~

15 [~~(3) in an individual, schedule, or blanket form~~
16 ~~approved by the finance commission; and~~

17 [~~(4) executed by a surety appearing on the list of~~
18 ~~approved sureties acceptable to the finance commission].~~

19 SECTION 8. Section 15.306, Finance Code, is amended to read
20 as follows:

21 Sec. 15.306. OATH[~~+~~ BOND]. [~~(a)~~] Before assuming the
22 duties of office, the commissioner, the deputy commissioner, each
23 examiner, and each other officer or employee of the commission
24 must[~~+~~

25 [~~(1)~~] take an oath of office approved by the
26 commission[~~+~~ and

27 [~~(2) post a fidelity bond in the amount of \$10,000.~~

1 ~~[(b) The bond must:~~

2 ~~[(1) be payable to the governor,~~

3 ~~[(2) be in individual, schedule, or blanket form~~
4 ~~approved by the commission, and~~

5 ~~[(3) be executed by a surety appearing on the list of~~
6 ~~approved sureties acceptable to the federal government.~~

7 ~~[(c) Premiums for the bond are paid from the money of the~~
8 ~~department].~~

9 SECTION 9. Section 403.002(b), Government Code, is amended
10 to read as follows:

11 (b) If the comptroller intentionally neglects or refuses to
12 perform a duty of the office of comptroller, the comptroller is
13 liable to the state for a penalty of not less than \$100 nor more than
14 \$1,000 for each day of the neglect or refusal. ~~[The surety company~~
15 ~~executing the comptroller's bond is jointly and separately liable~~
16 ~~for this penalty.]~~

17 SECTION 10. Section 403.003(b), Government Code, is amended
18 to read as follows:

19 (b) The chief clerk shall take the official oath ~~[and give~~
20 ~~bond in the amount of \$70,000, payable in the same manner as the~~
21 ~~comptroller's bond, and conditioned on the faithful performance of~~
22 ~~the duties of the office].~~

23 SECTION 11. Section 403.008, Government Code, is amended to
24 read as follows:

25 Sec. 403.008. BONDS AND EMPLOYEES. (a) The ~~[In addition to~~
26 ~~other bonds required by this chapter, the]~~ comptroller shall give
27 any special bond required by an Act of Congress or a federal

1 department or official to protect federal funds deposited with the
2 comptroller. The state shall pay the expenses necessary and
3 incidental to the execution of the bond.

4 (b) The comptroller shall appoint other employees that are
5 authorized by law. [~~Employees who as part of their duties handle~~
6 ~~money, drafts, checks, bills of exchange, warrants, securities, or~~
7 ~~other evidences of debt that are or may be convertible into money or~~
8 ~~other valuable property shall execute a bond that is issued by a~~
9 ~~good and solvent surety company authorized to do business in this~~
10 ~~state, payable to the comptroller in the sum that the comptroller~~
11 ~~requires, and conditioned on the faithful performance of the duties~~
12 ~~of the employee's position.~~] The comptroller [also] may require an
13 employee to be insured in the manner and sum required by the
14 comptroller.

15 (c) The state shall pay any expense incident to the
16 execution of a bond authorized under Chapter 653 [~~the bonds~~] and any
17 insurance of the chief clerk and other employees.

18 SECTION 12. Section 403.114(a), Government Code, is amended
19 to read as follows:

20 (a) The comptroller shall appoint a bond clerk. Before
21 taking office the bond clerk shall take the official oath [~~and give~~
22 ~~bond in the amount of \$10,000, payable to the comptroller, and~~
23 ~~conditioned on the faithful performance of the bond clerk's~~
24 ~~duties~~]. The bond clerk serves at the pleasure of the comptroller.

25 SECTION 13. Section 404.043, Government Code, is amended to
26 read as follows:

27 Sec. 404.043. SECURITY OFFICERS. The comptroller may

1 employ security officers to provide needed security services for
2 the treasury and may commission the officers as peace officers.
3 ~~[The security officers shall give bond in the same manner required~~
4 ~~for employees of the comptroller who handle money or other valuable~~
5 ~~property as part of their duties.]~~

6 SECTION 14. Section 406.006, Government Code, is amended to
7 read as follows:

8 Sec. 406.006. QUALIFICATION. An individual qualifies by:

- 9 (1) properly completing the application form;
10 (2) executing the statement;
11 (3) providing the bond, if required;
12 (4) paying the required filing fees; and
13 (5) meeting the eligibility requirements.

14 SECTION 15. Section 406.007(a), Government Code, is amended
15 to read as follows:

16 (a) The applicant must submit to the secretary of state:

- 17 (1) a fee of \$10 for approving and filing the bond of
18 the notary public, if required; and
19 (2) a fee of \$1 to be appropriated to and used by the
20 secretary of state only for hiring an investigator and for
21 preparing and distributing the materials required to be distributed
22 under Section 406.008.

23 SECTION 16. Section 406.010, Government Code, is amended by
24 adding Subsection (f) to read as follows:

25 (f) Subsections (a) and (b) do not apply to a person whose
26 services as a notary public are performed primarily as a state
27 officer or employee.

1 SECTION 17. Section 441.003(b), Government Code, is amended
2 to read as follows:

3 (b) The assistant state librarian has the rank of a
4 department head. In the absence of the director and librarian, the
5 assistant may sign and certify accounts and documents in the same
6 manner and with the same legal authority as the director and
7 librarian. The assistant [~~shall give bond to the governor in the~~
8 ~~sum of \$3,000 and~~] shall take the official oath.

9 SECTION 18. Section 481.005(b), Government Code, is amended
10 to read as follows:

11 (b) [~~The executive director shall execute a bond payable to~~
12 ~~the state in an amount set by the members of the governing board~~
13 ~~conditioned on the faithful performance of the duties of the~~
14 ~~position. Premiums for the bond are payable from appropriations to~~
15 ~~the department.~~] The executive director must have demonstrated
16 experience in the areas of economic development or tourism and
17 executive and organizational ability.

18 SECTION 19. Article 1.18, Insurance Code, is amended to
19 read as follows:

20 Art. 1.18. OATH [~~AND BOND~~] OF EXAMINERS AND ASSISTANTS[~~+~~
21 ~~ACTION ON BOND FOR FALSE REPORTS~~]. Each examiner and assistant
22 examiner, before entering upon the duties of his appointment shall
23 take and file in the office of the Secretary of State an oath to
24 support the Constitution of this State, to faithfully demean
25 himself in office, to make fair and impartial examinations, and
26 that he will not accept as presents or emoluments any pay, directly
27 or indirectly, for the discharge of his duty, other than the

1 remuneration fixed and accorded to him by law; and that he will not
2 reveal the condition of, nor any information secured in the course
3 of any examination of any corporation, firm or person examined by
4 him, to anyone except the Members of the State Board of Insurance,
5 or their authorized representative, or when required as witness in
6 an administrative hearing before the Board or the Commissioner or
7 in Court.

8 ~~[Every such examiner shall enter into a bond payable to the~~
9 ~~State in the sum of Ten Thousand Dollars (\$10,000) and every~~
10 ~~assistant examiner shall enter into a bond in the sum of Five~~
11 ~~Thousand Dollars (\$5,000), to be approved by the State Board of~~
12 ~~Insurance and deposited in the office of the State Comptroller,~~
13 ~~conditioned that he will faithfully perform his duties as such~~
14 ~~examiner.]~~

15 In case any such examiner or assistant examiner shall
16 knowingly make any false report or give any information in
17 violation of law relative to any such examination of any
18 corporation, firm or person so examined, any such corporation, firm
19 or person shall have a right of action on a bond authorized under
20 Chapter 653, Government Code, [such bond] for his injuries in a suit
21 brought in the name of the State at the relation of the injured
22 party.

23 SECTION 20. Section 31.014, Natural Resources Code, is
24 amended to read as follows:

25 Sec. 31.014. COMMISSIONER'S LIABILITY. The commissioner
26 and a surety on a bond authorized under Chapter 653, Government
27 Code, [the sureties on his official bond] are responsible to any

1 person who is injured by removal, withdrawal, or alteration of any
2 record or file in the land office, unless the commissioner is able
3 to show that the act has taken place with the permission of the
4 person owning the file or record.

5 SECTION 21. Section 31.015(a), Natural Resources Code, is
6 amended to read as follows:

7 (a) The commissioner shall appoint a chief clerk~~[, who shall~~
8 ~~execute a bond for \$20,000]~~.

9 SECTION 22. Section 31.018(b), Natural Resources Code, is
10 amended to read as follows:

11 (b) The translator shall ~~[execute a bond in the amount~~
12 ~~required for the chief clerk and shall]~~ take the official oath.

13 SECTION 23. Section 31.062(c), Natural Resources Code, is
14 amended to read as follows:

15 (c) If the suspended clerk is found guilty of embezzlement,
16 the clerk ~~[he]~~ shall be removed from office and a suit shall be
17 instituted to recover on a [his] bond authorized under Chapter 653,
18 Government Code.

19 SECTION 24. Section 201.160, Occupations Code, is amended
20 to read as follows:

21 Sec. 201.160. PAYMENT OF ~~[BONDS AND]~~ OTHER EXPENSES. The
22 board shall pay the ~~[following expenses:~~

23 ~~[(1) the premium of a bond required by the board of an~~
24 ~~officer or employee of the board; and~~

25 ~~[(2) the]~~ necessary expenses of an employee of the
26 board incurred in the performance of the employee's duties.

27 SECTION 25. The heading for Section 801.102, Occupations

1 Code, is amended to read as follows:

2 Sec. 801.102. CERTAIN DUTIES OF EXECUTIVE DIRECTOR [~~+~~
3 ~~SURETY BOND~~].

4 SECTION 26. The heading for Section 1071.101, Occupations
5 Code, as effective June 1, 2003, is amended to read as follows:

6 Sec. 1071.101. EXECUTIVE DIRECTOR [~~+~~ ~~BOND~~].

7 SECTION 27. Section 1101.054, Occupations Code, as
8 effective June 1, 2003, is amended to read as follows:

9 Sec. 1101.054. OFFICIAL OATH [~~+~~ ~~BOND~~]. Not later than the
10 15th day after the date of appointment, each appointee must [~~+~~

11 [~~(1)~~] take the constitutional oath of office [~~+~~ ~~and~~

12 [~~(2)~~ ~~execute a bond payable to the governor in the~~
13 ~~amount of \$10,000, conditioned on the faithful performance of the~~
14 ~~member's duties~~].

15 SECTION 28. The heading for Section 1601.102, Occupations
16 Code, is amended to read as follows:

17 Sec. 1601.102. EXECUTIVE DIRECTOR POWERS AND DUTIES [~~+~~
18 ~~SURETY BOND~~].

19 SECTION 29. Section 11.01(a), Texas Racing Act (Article
20 179e, Vernon's Texas Civil Statutes), is amended to read as
21 follows:

22 (a) The commission shall adopt rules to regulate wagering on
23 greyhound races and horse races under the system known as
24 pari-mutuel wagering. Wagering may be conducted only by an
25 association within its enclosure. The commission may commission as
26 many investigators as the commission determines necessary to
27 enforce this Act and the rules of the commission. Each investigator

1 shall take the constitutional oath of office and file it with the
2 commission. Each commissioned investigator has the powers of a
3 peace officer [~~, and shall make and execute a bond as required by the~~
4 ~~commission~~].

5 SECTION 30. Section 5(a), The Real Estate License Act
6 (Article 6573a, Vernon's Texas Civil Statutes), is amended to read
7 as follows:

8 (a) The administration of the provisions of this Act is
9 vested in a commission, to be known as the "Texas Real Estate
10 Commission," consisting of nine members to be appointed by the
11 governor with the advice and consent of two-thirds of the senate
12 present. The commissioners hold office for staggered terms of six
13 years with the terms of three members expiring January 31 of each
14 odd-numbered year. Each member holds office until the member's
15 successor is appointed and has qualified. Within 15 days after
16 appointment, each member shall qualify by taking the constitutional
17 oath of office [~~and furnishing a bond payable to the Governor of~~
18 ~~Texas in the penal sum of \$10,000, conditional on the faithful~~
19 ~~performance of the member's duties as prescribed by law]. A vacancy
20 for any cause shall be filled by the governor for the unexpired
21 term. The governor shall designate as chairperson of the
22 commission one member of the commission who is a licensed real
23 estate broker. The chairperson serves in that capacity at the
24 pleasure of the governor. At a regular meeting in February of each
25 year, the commission shall elect from its own membership a
26 vice-chairperson and secretary. A quorum of the commission
27 consists of five members.~~

SECTION 31. The following laws are repealed:

- 1 (1) Section 11.006, Agriculture Code;
- 2 (2) Section 58.012(d), Agriculture Code;
- 3 (3) Section 201.019(c), Agriculture Code;
- 4 (4) Section 5.10(e), Alcoholic Beverage Code;
- 5 (5) Section 5.142(c), Alcoholic Beverage Code;
- 6 (6) Section 51.001(c), Government Code;
- 7 (7) Section 51.201(c), Government Code;
- 8 (8) Section 81.029(f), Government Code;
- 9 (9) Section 403.002(a), Government Code;
- 10 (10) Section 403.009, Government Code;
- 11 (11) Section 403.247(f), Government Code;
- 12 (12) Section 405.003, Government Code;
- 13 (13) Section 431.024, Government Code;
- 14 (14) Section 441.002(e), Government Code;
- 15 (15) Section 441.182(h), Government Code;
- 16 (16) Section 494.006, Government Code;
- 17 (17) Section 815.209, Government Code;
- 18 (18) Section 825.209, Government Code;
- 19 (19) Section 840.208, Government Code;
- 20 (20) Section 845.209, Government Code;
- 21 (21) Section 855.208, Government Code;
- 22 (22) Sections 2103.064(b), (c), and (d), Government
23 Code;
- 24 (23) Section 2152.102, Government Code;
- 25 (24) Section 2306.029, Government Code;
- 26 (25) Section 402.024(b), Health and Safety Code;
- 27

- 1 (26) Section 31.025, Insurance Code;
- 2 (27) Section 31.013, Natural Resources Code;
- 3 (28) Section 31.017(b), Natural Resources Code;
- 4 (29) Section 161.012, Natural Resources Code;
- 5 (30) Section 152.053, Occupations Code;
- 6 (31) Section 201.055(c), Occupations Code;
- 7 (32) Section 253.002, Occupations Code;
- 8 (33) Section 301.102, Occupations Code;
- 9 (34) Section 302.057(d), Occupations Code;
- 10 (35) Section 351.102, Occupations Code;
- 11 (36) Section 451.055(b), Occupations Code;
- 12 (37) Section 554.008, Occupations Code;
- 13 (38) Section 651.101(b), Occupations Code;
- 14 (39) Section 801.102(b), Occupations Code;
- 15 (40) Section 1001.109(a), Occupations Code, as
16 effective June 1, 2003;
- 17 (41) Sections 1051.107(d) and (e), Occupations Code,
18 as effective June 1, 2003;
- 19 (42) Section 1071.101(b), Occupations Code, as
20 effective June 1, 2003;
- 21 (43) Section 1601.102(b), Occupations Code;
- 22 (44) Sections 321.501(b) and (c), Tax Code;
- 23 (45) Sections 323.501(b), (c), and (d), Tax Code;
- 24 (46) Section 201.055, Transportation Code;
- 25 (47) Section 201.301(c), Transportation Code; and
- 26 (48) Subsection I, Section 2, The Securities Act
27 (Article 581-2, Vernon's Texas Civil Statutes).

1 SECTION 32. This Act takes effect September 1, 2003.