

1-1 By: Elkins (Senate Sponsor - Averitt) H.B. No. 2376
1-2 (In the Senate - Received from the House April 28, 2003;
1-3 May 1, 2003, read first time and referred to Committee on
1-4 Government Organization; May 24, 2003, reported favorably by the
1-5 following vote: Yeas 6, Nays 0; May 24, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the correction or removal from the statutes of obsolete
1-9 references regarding the surety bonds of state officers and
1-10 employees.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 11.007(b), Agriculture Code, is amended
1-13 to read as follows:

1-14 (b) The deputy commissioner shall take the oath of office
1-15 required of the commissioner [~~and shall execute a bond with two or~~
1-16 ~~more sureties in the amount of \$3,000 payable to the state and~~
1-17 ~~conditioned on the faithful performance of the duties of the~~
1-18 ~~office. The bond is subject to approval by the governor].~~

1-19 SECTION 2. Section 5.11, Alcoholic Beverage Code, is
1-20 amended to read as follows:

1-21 Sec. 5.11. ADMINISTRATOR. The commission shall appoint an
1-22 administrator to serve at its will and, subject to its supervision,
1-23 administer this code. Unless the commission orders otherwise, the
1-24 administrator shall be manager, secretary, and custodian of all
1-25 records. The administrator shall devote his entire time to the
1-26 office and shall receive a salary as appropriated by the
1-27 legislature. [~~The administrator shall execute a bond in the sum of~~
1-28 ~~\$10,000, payable to the state, and conditioned as the commission~~
1-29 ~~requires.]~~

1-30 SECTION 3. Section 5.13, Alcoholic Beverage Code, is
1-31 amended to read as follows:

1-32 Sec. 5.13. ASSISTANT ADMINISTRATOR. The administrator
1-33 shall appoint an assistant administrator. The assistant
1-34 administrator must meet the same qualifications as the
1-35 administrator. The assistant administrator shall take the
1-36 constitutional oath of office [~~and make a bond in the same amount~~
1-37 ~~and on the same conditions as the administrator's bond]. In the~~
1-38 absence of the administrator, or in case of his inability to act,
1-39 the assistant administrator shall perform the duties conferred on
1-40 the administrator by law or delegated to the administrator by the
1-41 commission. If there is a vacancy in the office of administrator,
1-42 the assistant administrator shall perform the duties of the
1-43 administrator until an administrator has been appointed by the
1-44 commission. At other times he shall perform those duties and have
1-45 those functions, powers, and authority as may be delegated to him by
1-46 the administrator.

1-47 SECTION 4. Section 5.14, Alcoholic Beverage Code, is
1-48 amended to read as follows:

1-49 Sec. 5.14. INSPECTORS AND REPRESENTATIVES. The commission
1-50 or administrator may commission as many inspectors and
1-51 representatives as are necessary to enforce this code and other
1-52 laws administered by the commission. Each inspector and
1-53 representative shall take the constitutional oath of office, which
1-54 shall be filed in the office of the commission. Each commissioned
1-55 inspector and representative has all the powers of a peace officer
1-56 coextensive with the boundaries of the state. [~~Each commissioned~~
1-57 ~~inspector and representative shall make and execute a bond as~~
1-58 ~~required by the commission.]~~

1-59 SECTION 5. Section 51.203(d), Education Code, is amended to
1-60 read as follows:

1-61 (d) Any officer assigned to duty and commissioned shall take
1-62 and file the oath required of peace officers [~~, and shall execute and~~
1-63 ~~file a good and sufficient bond in the sum of \$1,000, payable to the~~
1-64 ~~governor and his successors in office, with two or more good and~~

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

2-5 SECTION 6. Section 88.103, Education Code, is amended to
 2-6 read as follows:

2-7 Sec. 88.103. ENFORCEMENT; APPOINTMENT OF PEACE OFFICERS.
 2-8 The director may appoint not to exceed 25 employees of the Texas
 2-9 Forest Service who are certified by the Commission on Law
 2-10 Enforcement Officer Standards and Education as qualified to be
 2-11 peace officers to serve as peace officers under his direction in
 2-12 executing the enforcement duties of that agency. The appointments
 2-13 must be approved by the board which shall commission the appointees
 2-14 as peace officers. Any officer commissioned under this section is
 2-15 vested with all the powers, privileges, and immunities of peace
 2-16 officers in the performance of his duties. The officer shall take
 2-17 the oath required of peace officers ~~[and shall execute a good and~~
 2-18 ~~sufficient bond in the sum of \$5,000, payable to the governor and~~
 2-19 ~~his successors in office, with two or more good and sufficient~~
 2-20 ~~personal sureties or with one corporate surety authorized to do~~
 2-21 ~~business in Texas, conditioned that he will fairly, impartially,~~
 2-22 ~~and faithfully perform all the duties that may be required of him by~~
 2-23 ~~law. The bond may be sued on in the name of any person injured until~~
 2-24 ~~the whole amount of the bond is recovered].~~

2-25 SECTION 7. Section 14.054, Finance Code, is amended to read
 2-26 as follows:

2-27 Sec. 14.054. OATH OF OFFICE [~~+~~ BOND]. [~~(a)~~] Before assuming
 2-28 the duties of office, the commissioner and each assistant
 2-29 commissioner, examiner, and other employee of the office must take
 2-30 an oath of office ~~[and post a fidelity bond.~~

2-31 ~~[(b) The bond must be:~~

- 2-32 ~~[(1) in the amount of \$10,000;~~
- 2-33 ~~[(2) payable to the finance commission or its~~
 2-34 ~~successor in office;~~
- 2-35 ~~[(3) in an individual, schedule, or blanket form~~
 2-36 ~~approved by the finance commission; and~~
- 2-37 ~~[(4) executed by a surety appearing on the list of~~
 2-38 ~~approved sureties acceptable to the finance commission].~~

2-39 SECTION 8. Section 15.306, Finance Code, is amended to read
 2-40 as follows:

2-41 Sec. 15.306. OATH [~~+~~ BOND]. [~~(a)~~] Before assuming the
 2-42 duties of office, the commissioner, the deputy commissioner, each
 2-43 examiner, and each other officer or employee of the commission
 2-44 must [~~+~~

- 2-45 ~~[(1)] take an oath of office approved by the~~
 2-46 ~~commission [~~+~~ and~~
- 2-47 ~~[(2) post a fidelity bond in the amount of \$10,000.~~

2-48 ~~[(b) The bond must:~~

- 2-49 ~~[(1) be payable to the governor;~~
- 2-50 ~~[(2) be in individual, schedule, or blanket form~~
 2-51 ~~approved by the commission; and~~
- 2-52 ~~[(3) be executed by a surety appearing on the list of~~
 2-53 ~~approved sureties acceptable to the federal government.~~

2-54 ~~[(c) Premiums for the bond are paid from the money of the~~
 2-55 ~~department].~~

2-56 SECTION 9. Section 403.002(b), Government Code, is amended
 2-57 to read as follows:

2-58 (b) If the comptroller intentionally neglects or refuses to
 2-59 perform a duty of the office of comptroller, the comptroller is
 2-60 liable to the state for a penalty of not less than \$100 nor more than
 2-61 \$1,000 for each day of the neglect or refusal. ~~[The surety company~~
 2-62 ~~executing the comptroller's bond is jointly and separately liable~~
 2-63 ~~for this penalty.]~~

2-64 SECTION 10. Section 403.003(b), Government Code, is amended
 2-65 to read as follows:

2-66 (b) The chief clerk shall take the official oath ~~[and give~~
 2-67 ~~bond in the amount of \$70,000, payable in the same manner as the~~
 2-68 ~~comptroller's bond, and conditioned on the faithful performance of~~
 2-69 ~~the duties of the office].~~

3-1 SECTION 11. Section 403.008, Government Code, is amended to
3-2 read as follows:

3-3 Sec. 403.008. BONDS AND EMPLOYEES. (a) The [~~In addition to~~
3-4 ~~other bonds required by this chapter, the~~] comptroller shall give
3-5 any special bond required by an Act of Congress or a federal
3-6 department or official to protect federal funds deposited with the
3-7 comptroller. The state shall pay the expenses necessary and
3-8 incidental to the execution of the bond.

3-9 (b) The comptroller shall appoint other employees that are
3-10 authorized by law. [~~Employees who as part of their duties handle~~
3-11 ~~money, drafts, checks, bills of exchange, warrants, securities, or~~
3-12 ~~other evidences of debt that are or may be convertible into money or~~
3-13 ~~other valuable property shall execute a bond that is issued by a~~
3-14 ~~good and solvent surety company authorized to do business in this~~
3-15 ~~state, payable to the comptroller in the sum that the comptroller~~
3-16 ~~requires, and conditioned on the faithful performance of the duties~~
3-17 ~~of the employee's position.] The comptroller [~~also~~] may require an
3-18 employee to be insured in the manner and sum required by the
3-19 comptroller.~~

3-20 (c) The state shall pay any expense incident to the
3-21 execution of a bond authorized under Chapter 653 [~~the bonds~~] and any
3-22 insurance of the chief clerk and other employees.

3-23 SECTION 12. Section 403.114(a), Government Code, is amended
3-24 to read as follows:

3-25 (a) The comptroller shall appoint a bond clerk. Before
3-26 taking office the bond clerk shall take the official oath [~~and give~~
3-27 ~~bond in the amount of \$10,000, payable to the comptroller, and~~
3-28 ~~conditioned on the faithful performance of the bond clerk's~~
3-29 ~~duties]. The bond clerk serves at the pleasure of the comptroller.~~

3-30 SECTION 13. Section 404.043, Government Code, is amended to
3-31 read as follows:

3-32 Sec. 404.043. SECURITY OFFICERS. The comptroller may
3-33 employ security officers to provide needed security services for
3-34 the treasury and may commission the officers as peace officers.
3-35 [~~The security officers shall give bond in the same manner required~~
3-36 ~~for employees of the comptroller who handle money or other valuable~~
3-37 ~~property as part of their duties.]~~

3-38 SECTION 14. Section 406.006, Government Code, is amended to
3-39 read as follows:

3-40 Sec. 406.006. QUALIFICATION. An individual qualifies by:

- 3-41 (1) properly completing the application form;
- 3-42 (2) executing the statement;
- 3-43 (3) providing the bond, if required;
- 3-44 (4) paying the required filing fees; and
- 3-45 (5) meeting the eligibility requirements.

3-46 SECTION 15. Section 406.007(a), Government Code, is amended
3-47 to read as follows:

3-48 (a) The applicant must submit to the secretary of state:

3-49 (1) a fee of \$10 for approving and filing the bond of
3-50 the notary public, if required; and

3-51 (2) a fee of \$1 to be appropriated to and used by the
3-52 secretary of state only for hiring an investigator and for
3-53 preparing and distributing the materials required to be distributed
3-54 under Section 406.008.

3-55 SECTION 16. Section 406.010, Government Code, is amended by
3-56 adding Subsection (f) to read as follows:

3-57 (f) Subsections (a) and (b) do not apply to a person whose
3-58 services as a notary public are performed primarily as a state
3-59 officer or employee.

3-60 SECTION 17. Section 441.003(b), Government Code, is amended
3-61 to read as follows:

3-62 (b) The assistant state librarian has the rank of a
3-63 department head. In the absence of the director and librarian, the
3-64 assistant may sign and certify accounts and documents in the same
3-65 manner and with the same legal authority as the director and
3-66 librarian. The assistant [~~shall give bond to the governor in the~~
3-67 ~~sum of \$3,000 and~~] shall take the official oath.

3-68 SECTION 18. Section 481.005(b), Government Code, is amended
3-69 to read as follows:

4-1 (b) ~~[The executive director shall execute a bond payable to~~
 4-2 ~~the state in an amount set by the members of the governing board~~
 4-3 ~~conditioned on the faithful performance of the duties of the~~
 4-4 ~~position. Premiums for the bond are payable from appropriations to~~
 4-5 ~~the department.]~~ The executive director must have demonstrated
 4-6 experience in the areas of economic development or tourism and
 4-7 executive and organizational ability.

4-8 SECTION 19. Article 1.18, Insurance Code, is amended to
 4-9 read as follows:

4-10 Art. 1.18. OATH ~~[AND BOND]~~ OF EXAMINERS AND ASSISTANTS ~~[+~~
 4-11 ~~ACTION ON BOND FOR FALSE REPORTS]~~. Each examiner and assistant
 4-12 examiner, before entering upon the duties of his appointment shall
 4-13 take and file in the office of the Secretary of State an oath to
 4-14 support the Constitution of this State, to faithfully demean
 4-15 himself in office, to make fair and impartial examinations, and
 4-16 that he will not accept as presents or emoluments any pay, directly
 4-17 or indirectly, for the discharge of his duty, other than the
 4-18 remuneration fixed and accorded to him by law; and that he will not
 4-19 reveal the condition of, nor any information secured in the course
 4-20 of any examination of any corporation, firm or person examined by
 4-21 him, to anyone except the Members of the State Board of Insurance,
 4-22 or their authorized representative, or when required as witness in
 4-23 an administrative hearing before the Board or the Commissioner or
 4-24 in Court.

4-25 ~~[Every such examiner shall enter into a bond payable to the~~
 4-26 ~~State in the sum of Ten Thousand Dollars (\$10,000) and every~~
 4-27 ~~assistant examiner shall enter into a bond in the sum of Five~~
 4-28 ~~Thousand Dollars (\$5,000), to be approved by the State Board of~~
 4-29 ~~Insurance and deposited in the office of the State Comptroller,~~
 4-30 ~~conditioned that he will faithfully perform his duties as such~~
 4-31 ~~examiner.]~~

4-32 In case any such examiner or assistant examiner shall
 4-33 knowingly make any false report or give any information in
 4-34 violation of law relative to any such examination of any
 4-35 corporation, firm or person so examined, any such corporation, firm
 4-36 or person shall have a right of action on a bond authorized under
 4-37 Chapter 653, Government Code, [such bond] for his injuries in a suit
 4-38 brought in the name of the State at the relation of the injured
 4-39 party.

4-40 SECTION 20. Section 31.014, Natural Resources Code, is
 4-41 amended to read as follows:

4-42 Sec. 31.014. COMMISSIONER'S LIABILITY. The commissioner
 4-43 and a surety on a bond authorized under Chapter 653, Government
 4-44 Code, [the sureties on his official bond] are responsible to any
 4-45 person who is injured by removal, withdrawal, or alteration of any
 4-46 record or file in the land office, unless the commissioner is able
 4-47 to show that the act has taken place with the permission of the
 4-48 person owning the file or record.

4-49 SECTION 21. Section 31.015(a), Natural Resources Code, is
 4-50 amended to read as follows:

4-51 (a) The commissioner shall appoint a chief clerk ~~[, who shall~~
 4-52 ~~execute a bond for \$20,000].~~

4-53 SECTION 22. Section 31.018(b), Natural Resources Code, is
 4-54 amended to read as follows:

4-55 (b) The translator shall ~~[execute a bond in the amount~~
 4-56 ~~required for the chief clerk and shall]~~ take the official oath.

4-57 SECTION 23. Section 31.062(c), Natural Resources Code, is
 4-58 amended to read as follows:

4-59 (c) If the suspended clerk is found guilty of embezzlement,
 4-60 the clerk [he] shall be removed from office and a suit shall be
 4-61 instituted to recover on a [his] bond authorized under Chapter 653,
 4-62 Government Code.

4-63 SECTION 24. Section 201.160, Occupations Code, is amended
 4-64 to read as follows:

4-65 Sec. 201.160. PAYMENT OF ~~[BONDS AND]~~ OTHER EXPENSES. The
 4-66 board shall pay the ~~[following expenses:~~

4-67 ~~[(1) the premium of a bond required by the board of an~~
 4-68 ~~officer or employee of the board; and~~

4-69 ~~[(2) the] necessary expenses of an employee of the~~

5-1 board incurred in the performance of the employee's duties.

5-2 SECTION 25. The heading for Section 801.102, Occupations
5-3 Code, is amended to read as follows:

5-4 Sec. 801.102. CERTAIN DUTIES OF EXECUTIVE DIRECTOR [~~+~~
5-5 SURETY BOND].

5-6 SECTION 26. The heading for Section 1071.101, Occupations
5-7 Code, as effective June 1, 2003, is amended to read as follows:

5-8 Sec. 1071.101. EXECUTIVE DIRECTOR[~~+~~ BOND].

5-9 SECTION 27. Section 1101.054, Occupations Code, as
5-10 effective June 1, 2003, is amended to read as follows:

5-11 Sec. 1101.054. OFFICIAL OATH[~~+~~ BOND]. Not later than the
5-12 15th day after the date of appointment, each appointee must[~~+~~

5-13 [~~(1)~~] take the constitutional oath of office[~~+~~ and
5-14 [~~(2)~~ execute a bond payable to the governor in the
5-15 amount of \$10,000, conditioned on the faithful performance of the
5-16 member's duties].

5-17 SECTION 28. The heading for Section 1601.102, Occupations
5-18 Code, is amended to read as follows:

5-19 Sec. 1601.102. EXECUTIVE DIRECTOR POWERS AND DUTIES [~~+~~
5-20 SURETY BOND].

5-21 SECTION 29. Section 11.01(a), Texas Racing Act (Article
5-22 179e, Vernon's Texas Civil Statutes), is amended to read as
5-23 follows:

5-24 (a) The commission shall adopt rules to regulate wagering on
5-25 greyhound races and horse races under the system known as
5-26 pari-mutuel wagering. Wagering may be conducted only by an
5-27 association within its enclosure. The commission may commission as
5-28 many investigators as the commission determines necessary to
5-29 enforce this Act and the rules of the commission. Each investigator
5-30 shall take the constitutional oath of office and file it with the
5-31 commission. Each commissioned investigator has the powers of a
5-32 peace officer[~~+~~ and shall make and execute a bond as required by the
5-33 commission].

5-34 SECTION 30. Section 5(a), The Real Estate License Act
5-35 (Article 6573a, Vernon's Texas Civil Statutes), is amended to read
5-36 as follows:

5-37 (a) The administration of the provisions of this Act is
5-38 vested in a commission, to be known as the "Texas Real Estate
5-39 Commission," consisting of nine members to be appointed by the
5-40 governor with the advice and consent of two-thirds of the senate
5-41 present. The commissioners hold office for staggered terms of six
5-42 years with the terms of three members expiring January 31 of each
5-43 odd-numbered year. Each member holds office until the member's
5-44 successor is appointed and has qualified. Within 15 days after
5-45 appointment, each member shall qualify by taking the constitutional
5-46 oath of office [~~and furnishing a bond payable to the Governor of
5-47 Texas in the penal sum of \$10,000, conditional on the faithful
5-48 performance of the member's duties as prescribed by law~~]. A vacancy
5-49 for any cause shall be filled by the governor for the unexpired
5-50 term. The governor shall designate as chairperson of the
5-51 commission one member of the commission who is a licensed real
5-52 estate broker. The chairperson serves in that capacity at the
5-53 pleasure of the governor. At a regular meeting in February of each
5-54 year, the commission shall elect from its own membership a
5-55 vice-chairperson and secretary. A quorum of the commission
5-56 consists of five members.

5-57 SECTION 31. The following laws are repealed:

- 5-58 (1) Section 11.006, Agriculture Code;
- 5-59 (2) Section 58.012(d), Agriculture Code;
- 5-60 (3) Section 201.019(c), Agriculture Code;
- 5-61 (4) Section 5.10(e), Alcoholic Beverage Code;
- 5-62 (5) Section 5.142(c), Alcoholic Beverage Code;
- 5-63 (6) Section 51.001(c), Government Code;
- 5-64 (7) Section 51.201(c), Government Code;
- 5-65 (8) Section 81.029(f), Government Code;
- 5-66 (9) Section 403.002(a), Government Code;
- 5-67 (10) Section 403.009, Government Code;
- 5-68 (11) Section 403.247(f), Government Code;
- 5-69 (12) Section 405.003, Government Code;

- 6-1 (13) Section 431.024, Government Code;
- 6-2 (14) Section 441.002(e), Government Code;
- 6-3 (15) Section 441.182(h), Government Code;
- 6-4 (16) Section 494.006, Government Code;
- 6-5 (17) Section 815.209, Government Code;
- 6-6 (18) Section 825.209, Government Code;
- 6-7 (19) Section 840.208, Government Code;
- 6-8 (20) Section 845.209, Government Code;
- 6-9 (21) Section 855.208, Government Code;
- 6-10 (22) Sections 2103.064(b), (c), and (d), Government
- 6-11 Code;
- 6-12 (23) Section 2152.102, Government Code;
- 6-13 (24) Section 2306.029, Government Code;
- 6-14 (25) Section 402.024(b), Health and Safety Code;
- 6-15 (26) Section 31.025, Insurance Code;
- 6-16 (27) Section 31.013, Natural Resources Code;
- 6-17 (28) Section 31.017(b), Natural Resources Code;
- 6-18 (29) Section 161.012, Natural Resources Code;
- 6-19 (30) Section 152.053, Occupations Code;
- 6-20 (31) Section 201.055(c), Occupations Code;
- 6-21 (32) Section 253.002, Occupations Code;
- 6-22 (33) Section 301.102, Occupations Code;
- 6-23 (34) Section 302.057(d), Occupations Code;
- 6-24 (35) Section 351.102, Occupations Code;
- 6-25 (36) Section 451.055(b), Occupations Code;
- 6-26 (37) Section 554.008, Occupations Code;
- 6-27 (38) Section 651.101(b), Occupations Code;
- 6-28 (39) Section 801.102(b), Occupations Code;
- 6-29 (40) Section 1001.109(a), Occupations Code, as
- 6-30 effective June 1, 2003;
- 6-31 (41) Sections 1051.107(d) and (e), Occupations Code,
- 6-32 as effective June 1, 2003;
- 6-33 (42) Section 1071.101(b), Occupations Code, as
- 6-34 effective June 1, 2003;
- 6-35 (43) Section 1601.102(b), Occupations Code;
- 6-36 (44) Sections 321.501(b) and (c), Tax Code;
- 6-37 (45) Sections 323.501(b), (c), and (d), Tax Code;
- 6-38 (46) Section 201.055, Transportation Code;
- 6-39 (47) Section 201.301(c), Transportation Code; and
- 6-40 (48) Subsection I, Section 2, The Securities Act
- 6-41 (Article 581-2, Vernon's Texas Civil Statutes).
- 6-42 SECTION 32. This Act takes effect September 1, 2003.

6-43 * * * * *