

1-1 By: Pickett (Senate Sponsor - Staples) H.B. No. 3441
1-2 (In the Senate - Received from the House May 12, 2003;
1-3 May 12, 2003, read first time and referred to Committee on Finance;
1-4 May 24, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 11, Nays 1; May 24, 2003,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3441 By: Staples

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

1-10 relating to a reduction in expenditures of certain state
1-11 governmental entities, including changes affecting the Commission
1-12 on Human Rights, attorney general's office, management of certain
1-13 accounts and funds, and certain election-related forms.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Subchapter A, Chapter 21, Labor Code, is amended
1-16 by adding Section 21.0015 to read as follows:

1-17 Sec. 21.0015. ATTORNEY GENERAL'S CIVIL RIGHTS DIVISION.
1-18 The powers and duties exercised by the Commission on Human Rights
1-19 under this chapter are transferred to the attorney general's civil
1-20 rights division. A reference in this chapter to the "commission"
1-21 means the attorney general's civil rights division.

1-22 SECTION 2. Subchapter A, Chapter 301, Property Code, is
1-23 amended by adding Section 301.0015 to read as follows:

1-24 Sec. 301.0015. ATTORNEY GENERAL'S CIVIL RIGHTS DIVISION.
1-25 The powers and duties exercised by the Commission on Human Rights
1-26 under this chapter are transferred to the attorney general's civil
1-27 rights division. A reference in this chapter to the "commission"
1-28 means the attorney general's civil rights division.

1-29 SECTION 3. Chapter 402, Government Code, is amended by
1-30 adding Subchapter D to read as follows:

1-31 SUBCHAPTER D. CIVIL RIGHTS DIVISION

1-32 Sec. 402.101. DEFINITIONS. In this subchapter:

1-33 (1) "Commission" means the Commission on Human Rights.

1-34 (2) "Director" means the director of the division.

1-35 (3) "Division" means the civil rights division of the
1-36 attorney general's office.

1-37 Sec. 402.102. GENERAL PROVISIONS. (a) The division is an
1-38 independent division in the attorney general's office. The
1-39 division shall be responsible for administering Chapter 21, Labor
1-40 Code, and Chapter 301, Property Code, including exercising the
1-41 powers and duties formerly exercised by the former Commission on
1-42 Human Rights under those laws.

1-43 (b) A reference in Chapter 21, Labor Code, Chapter 301,
1-44 Property Code, or any other law to the former Commission on Human
1-45 Rights means the division.

1-46 Sec. 402.103. COMMISSION. (a) The division is governed by
1-47 a commission consisting of seven members as follows:

1-48 (1) one member who represents industry;

1-49 (2) one member who represents labor; and

1-50 (3) five members who represent the public.

1-51 (b) The members of the commission established under this
1-52 section shall be appointed by the governor. In making appointments
1-53 to the commission, the governor shall strive to achieve
1-54 representation on the commission that is diverse with respect to
1-55 disability, religion, age, economic status, sex, race, and
1-56 ethnicity.

1-57 (c) The governor shall appoint the public members of the
1-58 commission from a list of names of individuals suggested by civil
1-59 rights organizations and groups.

1-60 (d) The term of office of each commissioner is six years.
1-61 The governor shall designate one commissioner to serve as presiding
1-62 officer.

1-63 (e) A commissioner is entitled to reimbursement of actual

and necessary expenses incurred in the performance of official duties.

(f) The commission shall establish policies for the division and supervise the director in administering the activities of the division.

(g) The commission is the state authority established as a fair employment practice agency and is authorized, with respect to an unlawful employment practice, to:

- (1) grant relief from the practice;
- (2) seek relief from the practice; or
- (3) institute criminal proceedings.

Sec. 402.104. DIRECTOR. (a) The director shall be appointed by the commission to administer the powers and duties of the division.

(b) To be eligible for appointment, the director must have relevant experience in the area of civil rights, specifically in working to prevent the types of discrimination the division is charged with preventing. The director must demonstrate a commitment to equal opportunity for minorities, women, and the disabled. The director should also have relevant experience with housing and employment discrimination claims.

Sec. 402.105. INVESTIGATOR TRAINING PROGRAM; PROCEDURES MANUAL. (a) A person who is employed under this chapter by the division as an investigator may not conduct an investigation until the person completes a comprehensive training and education program for investigators that complies with this section.

(b) The training program must provide the person with information regarding:

- (1) the requirements relating to employment adopted under the Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.) and its subsequent amendments, with a special emphasis on requirements regarding reasonable accommodations;
- (2) various types of disabilities and accommodations appropriate in an employment setting for each type of disability; and
- (3) fair employment and housing practices.

(c) Each investigator shall annually complete a continuing education program designed to provide investigators with the most recent information available regarding the issues described by Subsection (b), including legislative and judicial changes in the law.

(d) The director shall develop and biennially update an investigation procedures manual. The manual must include investigation procedures and information and may include information regarding the Equal Employment Opportunity Commission and the United States Department of Housing and Urban Development.

Sec. 402.106. ANALYSIS OF DISCRIMINATION COMPLAINTS; REPORT. (a) The division shall collect and report statewide information relating to employment and housing discrimination complaints as required by this section.

(b) Each state fiscal year, the division shall collect and analyze information regarding employment and housing discrimination complaints filed with the division, the Equal Employment Opportunity Commission, the United States Department of Housing and Urban Development, and local commissions in this state. The information must include:

- (1) an analysis of employment complaints filed by the basis of the complaint, including:
 - (A) sex, race, color, age, disability, national origin, religion, and genetic information; and
 - (B) retaliatory actions against the complainant;
- (2) an analysis of housing complaints filed by the basis of the complaint, including sex, race, color, disability, national origin, religion, and familial status;
- (3) an analysis of employment complaints filed by issue, including discharge, terms and conditions, sexual harassment, promotion, hiring, demotion, and layoff;
- (4) an analysis of housing complaints filed by issue, including terms and conditions, refusal to rent or sell,

3-1 discriminatory financing or advertising, and false representation;
3-2 (5) an analysis of employment and housing cases closed
3-3 by the reason the case was closed, including findings or
3-4 determinations of cause or no cause, successful conciliation, right
3-5 to sue issued, complaint withdrawn after resolution, no-fault
3-6 settlement, failure to cooperate by the complainant, and lack of
3-7 jurisdiction; and

3-8 (6) the average processing time for complaints
3-9 resolved by the division in each state fiscal year, regardless of
3-10 whether the complaint was filed in the same fiscal year in which the
3-11 complaint was resolved.

3-12 (c) The results of an analysis required under this section
3-13 shall be included in the attorney general's annual report to the
3-14 governor and legislature.

3-15 SECTION 4. Section 412.016(b), Government Code, is amended
3-16 to read as follows:

3-17 (b) The legislature may appropriate money to the institute
3-18 to finance the performance of the duties of the institute. If the
3-19 legislature does not appropriate money to the institute, the
3-20 attorney general may determine whether the institute shall perform
3-21 the duties prescribed by this chapter.

3-22 SECTION 5. The heading for Section 443.0101, Government
3-23 Code, is amended to read as follows:

3-24 Sec. 443.0101. CAPITOL TRUST FUND; CAPITOL ACCOUNT.

3-25 SECTION 6. Section 443.0101(a), Government Code, is amended
3-26 to read as follows:

3-27 (a) Money and securities donated to the board and income
3-28 from the Capitol gift shops, cafeteria, and Visitors Parking Garage
3-29 as authorized by this chapter shall be held in the Capitol trust
3-30 fund outside the treasury to be held by the comptroller as trustee
3-31 on behalf of the people of the state. Funds other than donated
3-32 funds and income from the Capitol gift shops, cafeteria, and
3-33 Visitors Parking Garage as authorized by this chapter shall be
3-34 deposited in the general revenue fund in an account [a special fund]
3-35 to be known as the Capitol account [fund]. The comptroller shall
3-36 manage and invest the account [fund] on behalf of the board as
3-37 directed or agreed to by the board, and all interest, dividends, and
3-38 other income of the account shall be credited to the account.

3-39 SECTION 7. Section 443.0103, Government Code, is amended to
3-40 read as follows:

3-41 Sec. 443.0103. CAPITAL RENEWAL ACCOUNT [TRUST FUND]. (a)
3-42 The capital renewal account [trust fund] is created as a dedicated
3-43 account in the general revenue fund. Money in the account may be
3-44 used only [trust fund outside the treasury with the comptroller and
3-45 shall be administered by the board, as a trustee on behalf of the
3-46 people of this state,] to maintain and preserve the Capitol, the
3-47 General Land Office Building, their contents, and their grounds.
3-48 The account [fund] consists of money transferred to the account
3-49 [fund]:

3-50 (1) at the direction of the legislature; or

3-51 (2) in accordance with this section.

3-52 ~~[(b) Money in the fund may be used only for the purpose of~~
3-53 ~~maintaining and preserving the Capitol, the General Land Office~~
3-54 ~~Building, their contents, and their grounds.]~~

3-55 (c) The interest received from investment of money in the
3-56 account [fund] shall be credited to the account [fund].

3-57 (d) The board may transfer money from [any account of] the
3-58 Capitol account [fund] to the capital renewal account [trust fund],
3-59 other than money that was donated to the board, derived from a
3-60 security or other thing of value donated to the board, or earned as
3-61 interest or other income on a donation to the board, if the board
3-62 determines that after the transfer there will be a sufficient
3-63 amount of money in the [applicable account of the] Capitol account
3-64 [fund] to accomplish the purposes for which the account was
3-65 created.

3-66 SECTION 8. Section 2108.037(b), Government Code, is amended
3-67 to read as follows:

3-68 (b) Except as otherwise provided by this subsection, the
3-69 [The] affected agency shall retain the amount of the actual or

4-1 projected savings or increased revenues attributable to an
 4-2 implemented suggestion, to the extent that the savings comes from
 4-3 funds appropriated to the affected agency. A portion of the savings
 4-4 or revenues shall be used by the affected agency to pay bonuses
 4-5 awarded by the commission under this subchapter. A portion of the
 4-6 savings or revenues may be transferred to the commission as
 4-7 specified in the General Appropriations Act for use by the
 4-8 commission for operational expenses.

4-9 SECTION 9. Section 2165.056(a), Government Code, is amended
 4-10 to read as follows:

4-11 (a) The commission may, at the [a state agency's] request of
 4-12 the Texas Department of Transportation or Texas Department of
 4-13 Criminal Justice, and shall for all other agencies exercise the
 4-14 powers and duties given to the commission by this subchapter and
 4-15 Subchapters A, D, E, and F, on or with respect to any property owned
 4-16 or leased by the state.

4-17 SECTION 10. Subchapter B, Chapter 2165, Government Code, is
 4-18 amended by adding Section 2165.057 to read as follows:

4-19 Sec. 2165.057. ANNUAL REPORT. Not later than September 1 of
 4-20 each year, the commission shall:

4-21 (1) issue a report on the amount of cost savings
 4-22 achieved by the commission through:

4-23 (A) the reduction of square footage of office and
 4-24 warehouse space leased;

4-25 (B) the efficient use of state-owned space;

4-26 (C) the renegotiation of leased space; and

4-27 (D) waivers granted in accordance with Section
 4-28 2165.104(c-1); and

4-29 (2) provide a copy of a report under this section to:

4-30 (A) the governor;

4-31 (B) the lieutenant governor;

4-32 (C) the speaker of the house of representatives;

4-33 (D) the chairs of the Senate Finance Committee
 4-34 and the House Appropriations Committee; and

4-35 (E) the chairs of the Senate Administration
 4-36 Committee and the House Administration Committee.

4-37 SECTION 11. Section 2165.104, Government Code, is amended
 4-38 by amending Subsection (c) and adding Subsection (c-1) to read as
 4-39 follows:

4-40 (c) ~~The [To the extent possible without sacrificing~~
 4-41 ~~critical public or client services, the]~~ commission may not
 4-42 allocate usable office space, as defined by the commission, to a
 4-43 state agency under Article I, II, V, VI, VII, or VIII of the General
 4-44 Appropriations Act or to the Texas Higher Education Coordinating
 4-45 Board, the Texas Education Agency, the State Board for Educator
 4-46 Certification, the Telecommunications Infrastructure Fund Board,
 4-47 or the Office of Court Administration of the Texas Judicial System
 4-48 in an amount that exceeds an average of 153 square feet per agency
 4-49 employee for each agency site. ~~[To the extent that any of those~~
 4-50 ~~agencies allocates its own usable office space, as defined by the~~
 4-51 ~~commission, the agency shall allocate the space to achieve the~~
 4-52 ~~required ratio.] This subsection does not apply to [+~~

4-53 ~~(1)] an agency site at which [fewer than 16 employees~~
 4-54 ~~are located,~~

4-55 ~~(2) warehouse space,~~

4-56 ~~(3) laboratory space,~~

4-57 ~~(4) storage space exceeding 1,000 gross square feet,~~

4-58 ~~(5) library space,~~

4-59 ~~(6) space for hearing rooms used to conduct hearings~~
 4-60 ~~required under the administrative procedure law, Chapter 2001, or~~

4-61 ~~(7) another type of space specified by commission~~
 4-62 ~~rule, if] the commission determines that it is not practical to~~
 4-63 ~~apply this subsection because of the type of [to that] space or use~~
 4-64 ~~of space at that site.~~

4-65 (c-1) For good cause and when critical to the public
 4-66 interest or client services, the commission may grant to an agency a
 4-67 waiver of the requirements under Subsection (c).

4-68 SECTION 12. Sections 2.014(c) and (d), Family Code, are
 4-69 amended to read as follows:

5-1 (c) The premarital education handbook under Subsection
5-2 (b)(1) may [~~shall~~] be distributed to each applicant for a marriage
5-3 license as provided by Section 2.009(c)(5) and shall contain
5-4 information on:

- 5-5 (1) conflict management;
- 5-6 (2) communication skills;
- 5-7 (3) children and parenting responsibilities; and
- 5-8 (4) financial responsibilities.

5-9 (d) The attorney general may [~~shall~~] appoint an advisory
5-10 committee to assist in the development of the premarital education
5-11 handbook. If appointed, the [~~The~~] advisory committee shall consist
5-12 of nine members, including at least three members who are eligible
5-13 under Section 2.013(d) to provide a premarital education course. A
5-14 member of the advisory committee is not entitled to reimbursement
5-15 of the member's expenses.

5-16 SECTION 13. On September 1, 2003:

5-17 (1) the Commission on Human Rights as it exists
5-18 immediately before that date is abolished and the offices of the
5-19 members of the commission serving on that date are abolished;

5-20 (2) all powers, duties, functions, and activities
5-21 performed by the Commission on Human Rights immediately before that
5-22 date are transferred to the attorney general's civil rights
5-23 division;

5-24 (3) a rule, form, order, or procedure adopted by the
5-25 Commission on Human Rights is a rule, form, order, or procedure of
5-26 the attorney general's civil rights division and remains in effect
5-27 until changed by the attorney general;

5-28 (4) a reference in law to the Commission on Human
5-29 Rights means the attorney general's civil rights division;

5-30 (5) a complaint, investigation, or other proceeding
5-31 pending before the Commission on Human Rights under Chapter 21,
5-32 Labor Code, Chapter 301, Property Code, or any other law is
5-33 transferred without change in status to the attorney general's
5-34 civil rights division;

5-35 (6) all obligations, rights, and contracts of the
5-36 Commission on Human Rights are transferred to the attorney
5-37 general's civil rights division; and

5-38 (7) all property, including records and money, in the
5-39 custody of the Commission on Human Rights and all funds
5-40 appropriated by the legislature for the Commission on Human Rights,
5-41 including federal funds, shall be transferred to the attorney
5-42 general's civil rights division.

5-43 SECTION 14. Not later than November 1, 2003, the governor
5-44 shall appoint new members to the Commission on Human Rights
5-45 established under Subchapter D, Chapter 402, Government Code, as
5-46 added by this Act. In appointing members under this section, the
5-47 governor shall appoint:

- 5-48 (1) two members for terms expiring February 1, 2005;
- 5-49 (2) two members for terms expiring February 1, 2007;

5-50 and

- 5-51 (3) three members for terms expiring February 1, 2009.

5-52 SECTION 15. (a) The first report required under Section
5-53 2165.057, Government Code, as added by this Act, must be provided to
5-54 the appropriate recipients specified under that section not later
5-55 than September 1, 2004.

5-56 (b) The change in law made by this Act to Chapter 2165,
5-57 Government Code, applies only to a lease for usable office space
5-58 entered into or renewed on or after September 1, 2003. A lease
5-59 entered into or renewed before September 1, 2003, shall be reviewed
5-60 by the Texas Building and Procurement Commission as the lease comes
5-61 up for renewal to determine whether it would be cost-effective to
5-62 bring the lease into compliance with Section 2165.104(c),
5-63 Government Code, as amended by this Act.

5-64 (c) Notwithstanding any other law, including Subchapter A,
5-65 Chapter 2254, and Chapters 2165, 2166, and 2167, Government Code,
5-66 and Sections 202.052, 202.053, 203.051, 203.052, and 223.001,
5-67 Transportation Code, the Texas Department of Transportation may
5-68 enter into one or more agreements with a private entity offering the
5-69 best value to the state that includes:

6-1 (1) both design and construction of the department's
6-2 several district office headquarters facilities;

6-3 (2) a lease of department-owned real property to the
6-4 private entity;

6-5 (3) provisions authorizing the private entity to
6-6 construct and retain ownership of buildings on property leased to
6-7 the private entity under Subdivision (2) of this section;

6-8 (4) provisions under which the department agrees to
6-9 enter into an agreement to lease with an option or options to
6-10 purchase for the buildings constructed on the leased property; and

6-11 (5) any other provisions the department considers
6-12 advantageous to the state.

6-13 (d) To the extent of any conflict between Chapter 2165,
6-14 Government Code, as amended by this Act, and a change in law to that
6-15 chapter by any other Act of the 78th Legislature, Regular Session,
6-16 2003, this Act prevails.

6-17 SECTION 16. (a) Notwithstanding any statute of this state,
6-18 each state agency that receives an appropriation under Article I of
6-19 the General Appropriations Act is authorized to reduce or recover
6-20 expenditures by adopting and collecting fees or charges to cover
6-21 any cost the agency incurs in performing its lawful functions.

6-22 (b) An agency described by Subsection (a) of this section
6-23 may not increase the amount of a fee or charge solely for a purpose
6-24 described by this section unless the agency provides written notice
6-25 of the increase to the Legislative Budget Board before the 60th day
6-26 preceding the date the increase is to take effect.

6-27 SECTION 17. The following laws are repealed:

6-28 (1) Sections 251.032, 254.036(j), and 258.005,
6-29 Election Code;

6-30 (2) Chapter 461, Government Code;

6-31 (3) Sections 572.030(b) and (c), Government Code;

6-32 (4) Sections 21.002(2) and (3), Labor Code; and

6-33 (5) Sections 301.003(3), 301.061, and 301.064,
6-34 Property Code.

6-35 SECTION 18. (a) Except as provided by Subsection (b) of
6-36 this section, this Act takes effect immediately if it receives a
6-37 vote of two-thirds of all the members elected to each house, as
6-38 provided by Section 39, Article III, Texas Constitution. If this
6-39 Act does not receive the vote necessary for immediate effect, this
6-40 Act takes effect September 1, 2003.

6-41 (b) Sections 6 and 7 of this Act take effect September 1,
6-42 2003.

6-43 * * * * *