

1-1 By: Pickett (Senate Sponsor - Averitt) H.B. No. 3442
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 12, Nays 0; May 24, 2003,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3442 By: Averitt

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

1-10 relating to certain expenditures and charges of certain
1-11 governmental entities.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. REDUCTION OF EXPENDITURES AND IMPOSITION OF
1-14 CHARGES GENERALLY. (a) This section applies to any state agency
1-15 that receives an appropriation under Article VI of the General
1-16 Appropriations Act.

1-17 (b) Notwithstanding any other statute of this state, each
1-18 state agency to which this section applies is authorized to reduce
1-19 or recover expenditures by:

1-20 (1) consolidating any reports or publications the
1-21 agency is required to make and filing or delivering any of those
1-22 reports or publications exclusively by electronic means;

1-23 (2) extending the effective period of any license,
1-24 permit, or registration the agency grants or administers;

1-25 (3) entering into a contract with another governmental
1-26 entity or with a private vendor to carry out any of the agency's
1-27 duties;

1-28 (4) adopting additional eligibility requirements for
1-29 persons who receive benefits under any law the agency administers
1-30 to ensure that those benefits are received by the most deserving
1-31 persons consistent with the purposes for which the benefits are
1-32 provided; and

1-33 (5) providing that any communication between the
1-34 agency and another person and any document required to be delivered
1-35 to or by the agency, including any application, notice, billing
1-36 statement, receipt, or certificate, may be made or delivered by
1-37 electronic mail or through the Internet.

1-38 SECTION 2. TEXAS ANIMAL HEALTH COMMISSION; DUTIES REGARDING
1-39 RIDING STABLES. (a) The Texas Animal Health Commission shall
1-40 reduce its expenditures of state money related to regulating equine
1-41 riding stables.

1-42 (b) Chapter 2053, Occupations Code, is repealed.

1-43 SECTION 3. ADMINISTRATIVE HEARINGS OF RAILROAD COMMISSION
1-44 OF TEXAS. Section 102.006, Utilities Code, is amended to read as
1-45 follows:

1-46 Sec. 102.006. [~~POWERS AND DUTIES OF STATE OFFICE OF~~
1-47 ~~ADMINISTRATIVE HEARINGS IN CONTESTED CASES.~~ (a) The railroad
1-48 commission by rule shall provide for administrative hearings in
1-49 contested cases to be conducted by one or more members of the
1-50 railroad commission, by railroad commission hearings examiners, or
1-51 by the [The] utility division of the State Office of Administrative
1-52 Hearings. The rules must provide for a railroad commission
1-53 hearings examiner or the utility division of the State Office of
1-54 Administrative Hearings to [shall] conduct each hearing in a
1-55 contested case that is not conducted by one or more members of the
1-56 railroad commission. A hearing must be conducted in accordance
1-57 with the rules and procedures adopted by the railroad commission.

1-58 (b) The railroad commission may delegate to a railroad
1-59 commission hearings examiner or to the utility division of the
1-60 State Office of Administrative Hearings the authority to make a
1-61 final decision and to issue findings of fact, conclusions of law,
1-62 and other necessary orders in a proceeding in which there is not a
1-63 contested issue of fact or law.

2-1 (c) The railroad commission by rule shall define the
 2-2 procedures by which it delegates final decision-making authority
 2-3 under Subsection (b) to a railroad commission hearings examiner or
 2-4 to the utility division of the State Office of Administrative
 2-5 Hearings.

2-6 (d) For purposes of judicial review, the [an administrative
 2-7 law judge's] final decision of a railroad commission hearings
 2-8 examiner or an administrative law judge of the State Office of
 2-9 Administrative Hearings in a matter delegated under Subsection (b)
 2-10 has the same effect as a final decision of the railroad commission
 2-11 unless a member of the commission requests formal review of the
 2-12 decision.

2-13 (e) The State Office of Administrative Hearings shall
 2-14 charge the railroad commission a fixed annual rate for hearings
 2-15 conducted by the office under this section only if the legislature
 2-16 appropriates money for that purpose. If the legislature does not
 2-17 appropriate money for the payment of a fixed annual rate under this
 2-18 section, the State Office of Administrative Hearings shall charge
 2-19 the railroad commission an hourly rate of not more than \$90 per hour
 2-20 for hearings conducted by the office under this section.

2-21 SECTION 4. TEXAS DEPARTMENT OF AGRICULTURE. (a) Section
 2-22 146.021, Agriculture Code, is amended to read as follows:

2-23 Sec. 146.021. DEPARTMENT FACILITIES. The department may
 2-24 receive and hold for processing animals transported in
 2-25 international trade and may establish and collect reasonable fees
 2-26 for yardage, maintenance, feed, medical care, and other necessary
 2-27 expenses incurred in the course of processing those animals.
 2-28 Notwithstanding any other law, the department may use any portion
 2-29 of fees collected under this section that remains after spending
 2-30 the proceeds of the fees to meet other necessary expenses incurred
 2-31 under this section for expenses related to maintenance of or
 2-32 repairs to department facilities.

2-33 (b) Section 13.101(a), Agriculture Code, is amended to read
 2-34 as follows:

2-35 (a) At least once every four [~~three~~] years, or more often as
 2-36 required by the department, a weight or measure shall be inspected
 2-37 and tested for correctness by a sealer if it:

2-38 (1) is kept for sale, sold, or used by a proprietor,
 2-39 agent, lessee, or employee in proving the weight or measure,
 2-40 including the size, quantity, extent, or area, of any item; or

2-41 (2) is purchased, offered, or submitted by a
 2-42 proprietor, agent, lessee, or employee for sale, hire, or award.

2-43 (c) Section 9(d), Chapter 1033, Acts of the 71st
 2-44 Legislature, Regular Session, 1989 (Article 8614, Vernon's Texas
 2-45 Civil Statutes), is repealed.

2-46 (d) This section takes effect September 1, 2003.

2-47 SECTION 5. ANIMAL HEALTH COMMISSION. (a) Subchapter C,
 2-48 Chapter 161, Agriculture Code, is amended by adding Section 161.060
 2-49 to read as follows:

2-50 Sec. 161.060. INSPECTION FEES. The commission may charge a
 2-51 fee, as provided by commission rule, for an inspection made by the
 2-52 commission.

2-53 (b) This section takes effect September 1, 2003.

2-54 SECTION 6. GENERAL LAND OFFICE OIL SPILL RECOVERY. (a)
 2-55 Sections 40.155(a), (c), and (d), Natural Resources Code, are
 2-56 amended to read as follows:

2-57 (a) Except as otherwise provided in this section, the rate
 2-58 of the fee shall be two cents per barrel of crude oil until the
 2-59 commissioner certifies that the unencumbered balance in the fund
 2-60 has reached \$40 [~~\$25~~] million. The commissioner shall certify to
 2-61 the comptroller the date on which the unencumbered balance in the
 2-62 fund exceeds \$40 [~~\$25~~] million. The fee shall not be collected or
 2-63 required to be paid on or after the first day of the second month
 2-64 following the commissioner's certification to the comptroller that
 2-65 the unencumbered balance in the fund exceeds \$40 [~~\$25~~] million.

2-66 (c) Notwithstanding the provisions of Subsection (a) or (b)
 2-67 of this section, the fee shall be levied at the rate of four cents
 2-68 per barrel if the commissioner certifies to the comptroller a
 2-69 written finding of the following facts:

3-1 (1) the unencumbered balance in the fund is less than
3-2 \$40 [~~\$25~~] million;

3-3 (2) an unauthorized discharge of oil in excess of
3-4 100,000 gallons has occurred within the previous 30 days; and

3-5 (3) expenditures from the fund for response costs and
3-6 damages are expected to deplete the fund substantially.

3-7 (d) In the event of a certification to the comptroller under
3-8 Subsection (c) of this section, the comptroller shall collect the
3-9 fee at the rate of four cents per barrel until the unencumbered
3-10 balance in the fund reaches \$40 [~~\$25~~] million or any lesser amount
3-11 that the commissioner determines is necessary to pay response costs
3-12 and damages without substantially depleting the fund. The
3-13 commissioner shall certify to the comptroller the date on which the
3-14 unencumbered balance in the fund exceeds \$40 [~~\$25~~] million or such
3-15 other lesser amount. The fee shall not be collected or required to
3-16 be paid on or after the first day of the second month following the
3-17 commissioner's certification to the comptroller.

3-18 (b) This section takes effect September 1, 2003.

3-19 SECTION 7. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY. (a)
3-20 Section 5.701, Water Code, is amended by adding Subsection (r) to
3-21 read as follows:

3-22 (r) The fee for processing a request for an expedited letter
3-23 from the executive director stating the total depth of surface
3-24 casing needed during the drilling of wells to protect usable ground
3-25 waters in the state and required for the processing of certain
3-26 permits from the Railroad Commission of Texas may not exceed \$75.

3-27 (b) Section 26.351(f), Water Code, is amended to read as
3-28 follows:

3-29 (f) The person performing corrective action under this
3-30 section, if the release was reported to the commission on or before
3-31 December 22, 1998, shall meet the following deadlines:

3-32 (1) a complete site assessment and risk assessment
3-33 (including, but not limited to, risk-based criteria for
3-34 establishing target concentrations), as determined by the
3-35 executive director, must be received by the agency no later than
3-36 September 1, 2002;

3-37 (2) a complete corrective action plan, as determined
3-38 by the executive director and including, but not limited to,
3-39 completion of pilot studies and recommendation of a cost-effective
3-40 and technically appropriate remediation methodology, must be
3-41 received by the agency no later than September 1, 2003. The person
3-42 may, in lieu of this requirement, submit by this same deadline a
3-43 demonstration that a corrective action plan is not required for the
3-44 site in question under commission rules. Such demonstration must
3-45 be to the executive director's satisfaction;

3-46 (3) for those sites found under Subdivision (2) to
3-47 require a corrective action plan, that plan must be initiated and
3-48 proceeding according to the requirements and deadlines in the
3-49 approved plan no later than March 1, 2005 [~~2004~~];

3-50 (4) for sites which require either a corrective action
3-51 plan or groundwater monitoring, a comprehensive and accurate annual
3-52 status report concerning those activities must be submitted to the
3-53 agency;

3-54 (5) for sites which require either a corrective action
3-55 plan or groundwater monitoring, all deadlines set by the executive
3-56 director concerning the corrective action plan or approved
3-57 groundwater monitoring plan shall be met; and

3-58 (6) site closure requests for all sites where the
3-59 executive director agreed in writing that no corrective action plan
3-60 was required must be received by the agency no later than September
3-61 1, 2005. The request must be complete, as judged by the executive
3-62 director.

3-63 (c) Section 26.3573(r), Water Code, as added by Chapters 965
3-64 and 1135, Acts of the 77th Legislature, Regular Session, 2001, is
3-65 amended to read as follows:

3-66 (r) The petroleum storage tank remediation account may not
3-67 be used to reimburse any person for corrective action performed
3-68 after September 1, 2006 [~~2005~~].

3-69 (d) Section 26.3573(s), Water Code, as added by Chapters 965

4-1 and 1135, Acts of the 77th Legislature, Regular Session, 2001, is
4-2 amended to read as follows:

4-3 (s) The petroleum storage tank remediation account may not
4-4 be used to reimburse any person for corrective action contained in a
4-5 reimbursement claim filed with the commission after March 1, 2007
4-6 [~~2006~~].

4-7 (e) Section 26.35731(c), Water Code, is amended to read as
4-8 follows:

4-9 (c) Not later than the 90th day after the date on which the
4-10 commission receives a completed application for reimbursement from
4-11 the petroleum storage tank remediation account, the commission
4-12 shall send a fund payment report to the owner or operator of a
4-13 petroleum storage tank system that is seeking reimbursement, if
4-14 sufficient funds are available to make the payment.

4-15 (f) This section takes effect September 1, 2003.

4-16 SECTION 8. TEXAS PARKS AND WILDLIFE DEPARTMENT FEES. (a)
4-17 Section 11.032, Parks and Wildlife Code, is amended by amending
4-18 Subsection (b) and adding Subsection (c) to read as follows:

4-19 (b) The department shall deposit to the credit of the game,
4-20 fish, and water safety account all revenue, less allowable costs,
4-21 from the following sources:

4-22 (1) all types of fishing licenses and stamps and
4-23 shrimping licenses, except as provided by Section 77.120;

4-24 (2) all types of hunting licenses and stamps;

4-25 (3) trapping licenses and other licenses relating to
4-26 the taking, propagation, and sale of fur-bearing animals or their
4-27 pelts;

4-28 (4) sale of marl, sand, gravel, shell, and mudshell;

4-29 (5) oyster bed rentals and permits;

4-30 (6) federal funds received for fish and wildlife
4-31 research, management, development and conservation, resource
4-32 protection, and law enforcement, unless the funds are received for
4-33 the specific purposes of Subchapter F, Chapter 77;

4-34 (7) sale of property, less advertising costs,
4-35 purchased from this account or a special fund or account that is now
4-36 part of this account;

4-37 (8) fines and penalties collected for violations of a
4-38 law pertaining to the protection and conservation of wild birds,
4-39 wild fowl, wild animals, fish, shrimp, oysters, game birds and
4-40 animals, fur-bearing animals, alligators, and any other wildlife
4-41 resources of this state;

4-42 (9) sale of rough fish by the department;

4-43 (10) fees for importation permits;

4-44 (11) fees from supplying fish for or placing fish in
4-45 water located on private property;

4-46 (12) sale of seized pelts;

4-47 (13) sale or lease of grazing rights to and the
4-48 products from game preserves, sanctuaries, and management areas;

4-49 (14) contracts for the removal of fur-bearing animals
4-50 and reptiles from wildlife management areas;

4-51 (15) vessel [~~motorboat~~] registration fees;

4-52 (16) vessel [~~motorboat~~] manufacturer or dealer
4-53 licensing fees [~~registration fee~~];

4-54 (17) fines or penalties imposed by a court for
4-55 violation of water safety laws contained in Chapter 31 of this code;

4-56 (18) alligator hunter's or alligator buyer's licenses;

4-57 (19) sale of alligators or any part of an alligator by
4-58 the department;

4-59 (20) fees and revenue collected under Section
4-60 11.027(b) or (c) of this code that are associated with the
4-61 conservation of fish and wildlife; [~~and~~]

4-62 (21) any other source provided by law; and

4-63 (22) vessel and outboard motor titling fees.

4-64 (c) Not later than the 10th day of each month the department
4-65 shall transfer 15 percent of all amounts collected during the
4-66 previous month from sources described by Subsection (b)(15), (16),
4-67 or (22) to the state parks account.

4-68 (b) This section takes effect September 1, 2003.

4-69 SECTION 9. TEXAS PARKS AND WILDLIFE DEPARTMENT REGULATION

5-1 OF MARINE BUSINESSES. (a) Section 31.003, Parks and Wildlife Code,
5-2 is amended by amending Subdivision (7) and adding Subdivision (16)
5-3 to read as follows:

5-4 (7) "Dealer" means a person [~~customarily~~] engaged in
5-5 the business of buying, selling, selling on consignment, displaying
5-6 for sale, or exchanging at least five vessels, motorboats, or
5-7 outboard motors during a calendar year at an established or
5-8 permanent place of business in this state [~~and that at each place of~~
5-9 ~~business there is a sign conspicuously displayed showing the name~~
5-10 ~~of the dealership so that it may be located by the public and~~
5-11 ~~sufficient space to maintain an office, service area, and display~~
5-12 ~~of products~~].

5-13 (16) "Distributor" means a person who offers for sale,
5-14 sells, or processes for distribution new boats or outboard motors
5-15 to dealers in this state.

5-16 (b) Subchapter A, Chapter 31, Parks and Wildlife Code, is
5-17 amended by adding Section 31.007 to read as follows:

5-18 Sec. 31.007. DEALER REQUIREMENTS. A dealer shall:

5-19 (1) display in each of the dealer's places of business
5-20 a sign that:

5-21 (A) is conspicuous to the public; and

5-22 (B) shows the name of the dealership; and

5-23 (2) operate in a space sufficient to maintain an
5-24 office, service area, and display of products.

5-25 (c) Section 31.021, Parks and Wildlife Code, is amended to
5-26 read as follows:

5-27 Sec. 31.021. REQUIRED NUMBERING. (a) Each [~~undocumented~~]
5-28 vessel on the water of this state shall be numbered in accordance
5-29 with the provisions of this chapter unless specifically exempted.
5-30 The numbering system shall be in accord with the Federal Boating Act
5-31 of 1958 and subsequent federal legislation.

5-32 (b) No person may operate or give permission for the
5-33 operation of any vessel or may dock, moor, or store a vessel owned
5-34 by the person on the water of this state unless:

5-35 (1) the vessel is numbered as required by this
5-36 chapter;

5-37 (2) the certificate of number awarded to the vessel is
5-38 in full force and effect; and

5-39 (3) the identifying number set forth in the
5-40 certificate is properly displayed on each side of the bow of the
5-41 vessel as required by this chapter.

5-42 (d) Section 31.032, Parks and Wildlife Code, is amended to
5-43 read as follows:

5-44 Sec. 31.032. NUMBERING ON BOW. (a) The owner of a vessel
5-45 shall paint on or attach to each side of the vessel near the bow the
5-46 identification number and a validation decal in the manner
5-47 prescribed by the department. The number shall read from left to
5-48 right and shall be of block characters of good proportion of not
5-49 less than three inches in height. The numbers shall be of a color
5-50 which will contrast with the hull material of the vessel and so
5-51 maintained as to be clearly visible and legible.

5-52 (b) The owner of a vessel required to be numbered under this
5-53 subchapter and documented by the United States Coast Guard is not
5-54 required to attach an identification number as required by
5-55 Subsection (a).

5-56 (c) The commission shall adopt rules for the placement of
5-57 the validation decal in an alternate location for antique boats. In
5-58 this subsection, "antique boat" means a boat that:

5-59 (1) is used primarily for recreational purposes; and

5-60 (2) was manufactured before 1968.

5-61 (e) Section 31.039, Parks and Wildlife Code, is amended to
5-62 read as follows:

5-63 Sec. 31.039. PUBLIC RECORDS; FEES. (a) All ownership
5-64 records of the department made or kept under this chapter are public
5-65 records.

5-66 (b) The commission may by rule charge a fee for access to
5-67 ownership records and other records made or kept under this
5-68 chapter.

5-69 (f) Section 31.041, Parks and Wildlife Code, is amended to

6-1 read as follows:

6-2 Sec. 31.041. DEALER'S, DISTRIBUTOR'S, AND MANUFACTURER'S
 6-3 LICENSE [NUMBER]. (a) A person may not engage in business in this
 6-4 state as a dealer, distributor, or manufacturer unless the person
 6-5 holds a license issued under this section. A dealer must have a
 6-6 license for each place of business owned and operated by the person.

6-7 (b) The commission shall establish the form and manner for
 6-8 display of a license issued under this section.

6-9 (c) The department shall issue a dealer, distributor, or
 6-10 manufacturer number to each dealer, distributor, or manufacturer
 6-11 licensed under this section in the manner provided by Section
 6-12 31.031(b).

6-13 (d) A dealer, distributor, or manufacturer of vessels in
 6-14 this state may use the ~~[obtain a]~~ dealer's, distributor's, or ~~[and]~~
 6-15 manufacturer's number for vessels the dealer, distributor, or
 6-16 manufacturer wishes to show, demonstrate, or test on the water of
 6-17 this state instead of securing a certificate of number for each
 6-18 vessel. The number shall be attached to any vessel that the dealer,
 6-19 distributor, or manufacturer sends temporarily on the water. For
 6-20 purposes of this subsection, "show, demonstrate, or test" does not
 6-21 include the use of a vessel for recreational purposes or for
 6-22 participation in a contest or event.

6-23 (e) ~~[(b)]~~ The application for a license under this section
 6-24 ~~[number]~~ must state that the applicant is a dealer, distributor, or
 6-25 manufacturer within the meaning of this chapter, and the facts
 6-26 stated on the application must be sworn before an officer
 6-27 authorized to administer oaths. An ~~[The]~~ application submitted by
 6-28 a dealer must be accompanied by photographs of the business
 6-29 sufficient to show any sign the business is required to display and
 6-30 the extent of the space the business is required to maintain. The
 6-31 application must also be accompanied by a copy of the tax permit of
 6-32 the dealer, distributor, or manufacturer issued by the comptroller
 6-33 under Chapter 151, Tax Code, if the dealer, distributor, or
 6-34 manufacturer has a tax permit. The two-year fee for a dealer's,
 6-35 distributor's, or ~~[and]~~ manufacturer's number is \$500 ~~[\$45 or an~~
 6-36 ~~amount set by the commission, whichever amount is more]. A license~~
 6-37 ~~[No number]~~ may not be issued until the provisions of this section
 6-38 have been satisfied.

6-39 (f) ~~[(c)]~~ A dealer, distributor, or manufacturer holding a
 6-40 dealer's, distributor's, or ~~[and]~~ manufacturer's license ~~[number]~~
 6-41 may issue a reasonable temporary facsimile of the number issued
 6-42 under Subsection (c), which may be used by any authorized person. A
 6-43 person purchasing a vessel may use the dealer's number for a period
 6-44 not to exceed 15 days prior to filing an application for a
 6-45 certificate of number. The form of the facsimile and the manner of
 6-46 display of the number shall be prescribed by the department.

6-47 (g) ~~[(d)]~~ A dealer, distributor, or manufacturer holding a
 6-48 dealer's, distributor's, or ~~[and]~~ manufacturer's license ~~[number]~~
 6-49 may transfer a certificate of number or a certificate of title to a
 6-50 vessel or outboard motor without securing a certificate of number
 6-51 or certificate of title in the dealer's, distributor's, or
 6-52 manufacturer's name if the vessel or outboard motor is sold in the
 6-53 normal course of the dealer's, distributor's, or manufacturer's
 6-54 business. ~~[Any other person transferring a vessel or outboard~~
 6-55 ~~motor must secure a certificate of number or certificate of title in~~
 6-56 ~~the person's name before transferring the certificate of number or~~
 6-57 ~~the certificate of title.]~~

6-58 (g) Subchapter B, Chapter 31, Parks and Wildlife Code, is
 6-59 amended by adding Sections 31.0411, 31.0412, and 31.0413 to read as
 6-60 follows:

6-61 Sec. 31.0411. TERM OF LICENSE; TRANSFER. (a) Except as
 6-62 provided by Subsection (b), a license issued under Section 31.041:

6-63 (1) is valid for two years from the date of issuance;
 6-64 and

6-65 (2) may not be transferred to another person.

6-66 (b) A license issued under Section 31.041 in the name of a
 6-67 business remains valid for the business location specified on the
 6-68 license if a change of ownership or business name occurs.

6-69 (c) A license issued under Section 31.041 may be transferred

7-1 to a new address if:

7-2 (1) a business moves to another location; and

7-3 (2) a change of ownership has not occurred.

7-4 Sec. 31.0412. LICENSING RULES. The commission may adopt
7-5 rules regarding licenses issued under Section 31.041, including
7-6 rules:

7-7 (1) regarding license transfer procedures;

7-8 (2) prescribing application forms;

7-9 (3) regarding application and renewal procedures;

7-10 (4) prescribing reporting and recordkeeping
7-11 requirements for license holders; and

7-12 (5) setting fees to be charged for:

7-13 (A) a transferred license; or

7-14 (B) a replacement license.

7-15 Sec. 31.0413. EXEMPTION FROM DEALER LICENSING
7-16 REQUIREMENTS. The dealer licensing provisions of this subchapter
7-17 do not apply to the sale of a canoe, kayak, punt, rowboat, rubber
7-18 raft, paddleboat, or other vessel that is less than 12 feet in
7-19 length and has a horsepower rating of five horsepower or less or to
7-20 the sale of an outboard motor with a manufacturer's rating of five
7-21 horsepower or less.

7-22 (h) Section 31.042(b), Parks and Wildlife Code, is amended
7-23 to read as follows:

7-24 (b) Causes for cancellation of certificates and voiding of
7-25 numbers include:

7-26 (1) surrender of the certificate for cancellation;

7-27 (2) issuance of a new number for the same vessel;

7-28 (3) ~~issuance of a marine document by the Bureau of~~
7-29 ~~Customs for the same vessel;~~

7-30 ~~[(4)] false or fraudulent certification in an~~
7-31 application for number;

7-32 (4) ~~[(5)] failure to pay the prescribed fee; and~~

7-33 (5) ~~[(6)] dismantling, destruction, or other change~~
7-34 in the form or character of the vessel or outboard motor so that it
7-35 is no longer correctly described in the certificate or it no longer
7-36 meets the definition of a vessel or outboard motor.

7-37 (i) Subchapter B, Chapter 31, Parks and Wildlife Code, is
7-38 amended by adding Section 31.044 to read as follows:

7-39 Sec. 31.044. INSPECTIONS. A dealer, distributor, or
7-40 manufacturer may not refuse to allow the department or a peace
7-41 officer to inspect a vessel, outboard motor, or records relating to
7-42 the possession, origination, ownership, or transfer of a vessel or
7-43 outboard motor at a dealership or distributor's or manufacturer's
7-44 place of business during normal business hours.

7-45 (j) Subchapter B-1, Chapter 31, Parks and Wildlife Code, is
7-46 amended by adding Section 31.0465 to read as follows:

7-47 Sec. 31.0465. APPEAL REGARDING CERTIFICATE OF TITLE; BOND;
7-48 RULES. (a) An applicant for a certificate of title under Section
7-49 31.046 may appeal the department's refusal to issue the title by
7-50 filing a bond with the department as provided by this section.

7-51 (b) A bond filed under this section must be:

7-52 (1) in the form prescribed by the department;

7-53 (2) executed by the applicant;

7-54 (3) issued by a person authorized to act as a surety
7-55 business in this state;

7-56 (4) in an amount equal to 1-1/2 times the value of the
7-57 vessel or outboard motor as determined by the department; and

7-58 (5) conditioned to indemnify all prior owners and
7-59 lienholders and all subsequent purchasers of the vessel or outboard
7-60 motor or persons who acquire a security interest in the vessel or
7-61 outboard motor, and their successors in interest, against any
7-62 expense, loss, or damage, including reasonable attorney's fees,
7-63 resulting from:

7-64 (A) the issuance of the certificate of title for
7-65 the vessel or outboard motor; or

7-66 (B) a defect in or undisclosed security interest
7-67 in the right, title, or interest of the applicant to or in the
7-68 vessel or outboard motor.

7-69 (c) The department may issue the certificate of title to the

8-1 person filing the bond if the applicant proves to the satisfaction
8-2 of the department that:

- 8-3 (1) the vessel or outboard motor is not stolen; and
- 8-4 (2) issuance of a certificate of title would not
8-5 defraud the owner or a lienholder of the vessel or outboard motor.

8-6 (d) A person described by Subsection (b)(5) has a right of
8-7 action to recover on the bond for a breach of a condition of the bond
8-8 described by Subsection (b)(5). The aggregate liability of the
8-9 surety to all persons may not exceed the amount of the bond.

8-10 (e) A bond filed under this section expires on the third
8-11 anniversary of the date the bond became effective. The department
8-12 shall return an expired bond to the person who filed the bond unless
8-13 the department has been notified of a pending action to recover on
8-14 the bond.

8-15 (f) On return of a bond under Subsection (e), the department
8-16 shall issue a certificate of title to the person to whom the bond is
8-17 returned.

8-18 (g) In addition to the situation described by Subsection
8-19 (c), the commission by rule may define acceptable situations in
8-20 which certificates of title may be issued after the filing of a bond
8-21 under this section.

8-22 (k) Section 31.049(c), Parks and Wildlife Code, is amended
8-23 to read as follows:

8-24 (c) If there is a lien on the vessel or outboard motor, the
8-25 original certificate of title shall be sent to the first
8-26 lienholder [~~a duplicate original certificate shall be sent to the~~
8-27 ~~owner,~~] and a copy shall be retained by the department.

8-28 (l) Section 31.053, Parks and Wildlife Code, is amended by
8-29 adding Subsection (f) to read as follows:

8-30 (f) A person who is not licensed as a dealer, distributor,
8-31 or manufacturer under this chapter must obtain a certificate of
8-32 number or certificate of title to a vessel or outboard motor in the
8-33 person's name before transferring the certificate of number or
8-34 certificate of title.

8-35 (m) Section 31.127(a), Parks and Wildlife Code, is amended
8-36 to read as follows:

8-37 (a) A person who violates or fails to comply with any
8-38 provision of this chapter, or who violates or fails to comply with a
8-39 proclamation of the commission entered under this chapter or a city
8-40 ordinance or order of a commissioners court or a political
8-41 subdivision of the state made or entered under this chapter,
8-42 commits an offense that is a Class C Parks and Wildlife Code
8-43 misdemeanor.

8-44 (n) Not later than January 1, 2004, the Parks and Wildlife
8-45 Commission shall adopt any rules necessary to implement Subsections
8-46 (a)-(l) of this section.

8-47 (o) A person is not required to be licensed under Section
8-48 31.041, Parks and Wildlife Code, as amended by this section, until
8-49 March 1, 2004. Before that date, the person is governed by the law
8-50 as it existed immediately before the effective date of this
8-51 section, and that law is continued in effect for that purpose.

8-52 (p) This section takes effect September 1, 2003.

8-53 SECTION 10. TEXAS PARKS AND WILDLIFE DEPARTMENT: FRESHWATER
8-54 FISHING STAMP. (a) Chapter 43, Parks and Wildlife Code, is amended
8-55 by adding Subchapter U to read as follows:

8-56 SUBCHAPTER U. FRESHWATER FISHING STAMP
8-57 Sec. 43.801. DEFINITION. In this subchapter, "fresh water"
8-58 has the meaning provided by Section 66.001.

8-59 Sec. 43.802. FRESHWATER FISHING STAMP REQUIRED. (a)
8-60 Except as provided by Subsection (b) or (c), no person may engage in
8-61 fishing in fresh water for sporting purposes in this state unless
8-62 the person has acquired a freshwater fishing stamp issued to the
8-63 person by the department. The commission by rule may adopt
8-64 requirements relating to possessing a freshwater fishing stamp
8-65 required by this section.

8-66 (b) A person who is exempted from obtaining a fishing
8-67 license under Chapter 46 is not required to obtain a freshwater
8-68 fishing stamp.

8-69 (c) The commission by rule may exempt a person from the

9-1 freshwater fishing stamp requirement of this section.

9-2 Sec. 43.803. FISHING LICENSE REQUIRED. The acquisition of
 9-3 a freshwater fishing stamp does not authorize a person to fish in
 9-4 fresh water for sporting purposes without having acquired a fishing
 9-5 license as provided by Chapter 46. The acquisition of a freshwater
 9-6 fishing stamp does not authorize a person to fish at any time or by
 9-7 any means not otherwise authorized by this code.

9-8 Sec. 43.804. DESIGN AND ISSUANCE OF STAMPS. (a) The
 9-9 department may issue a freshwater fishing stamp to any person on the
 9-10 payment to the department of \$5. Except as provided by Subsection
 9-11 (e), a stamp must be signed on its face by the person using it for
 9-12 the stamp to be valid for fishing purposes.

9-13 (b) The department may issue a collectible freshwater
 9-14 fishing stamp to any person on the payment to the department of \$5.
 9-15 A collectible freshwater fishing stamp does not authorize a person
 9-16 to fish and is not valid for fishing purposes.

9-17 (c) The commission by rule shall prescribe the form, design,
 9-18 and manner of issuance of the freshwater fishing stamp and the
 9-19 collectible freshwater fishing stamp. The department retains all
 9-20 reproduction rights to the design of the freshwater fishing stamp
 9-21 and the collectible freshwater fishing stamp.

9-22 (d) The commission may contract with and pay a person for
 9-23 designing and producing the freshwater fishing stamp or the
 9-24 collectible freshwater fishing stamp.

9-25 (e) The commission by rule may prescribe alternate
 9-26 requirements for identifying the purchaser of a freshwater fishing
 9-27 stamp issued in an automated manner.

9-28 Sec. 43.805. DISPOSITION OF STAMP FEES. (a) After
 9-29 deduction of any collection fee, the net receipts from freshwater
 9-30 fishing stamp and collectable freshwater fishing stamp sales shall
 9-31 be sent to the department.

9-32 (b) The net receipts from freshwater fishing stamp sales may
 9-33 be spent only for:

9-34 (1) the repair, maintenance, renovation, or
 9-35 replacement of freshwater fish hatcheries in this state; or

9-36 (2) the purchase of game fish that are stocked into the
 9-37 public water of this state.

9-38 (c) The net receipts from collectible freshwater fishing
 9-39 stamp sales may be spent only for the restoration, enhancement, or
 9-40 management of freshwater fish habitats.

9-41 Sec. 43.806. EXPIRATION OF STAMP. (a) Except as provided
 9-42 by Subsection (b) or (c), a freshwater fishing stamp is valid for
 9-43 fishing only during the yearly period for which the stamp is issued,
 9-44 without regard to the date on which the stamp is acquired. Each
 9-45 yearly period begins on September 1 of the year in which the stamp
 9-46 is issued or another date set by the commission and extends through
 9-47 August 31 of the next year or another date set by the commission.
 9-48 The commission by rule may set the amount of a stamp fee for a stamp
 9-49 issued during a transition period at an amount lower than
 9-50 prescribed in this subchapter and provide for a stamp term for a
 9-51 transition period that is shorter or longer than one year.

9-52 (b) A freshwater fishing stamp issued before September 1 or
 9-53 another date set by the commission that does not expire until August
 9-54 31 of the next year or another date set by the commission is valid
 9-55 from the date of issuance through August 31 of the next year or
 9-56 another date set by the commission.

9-57 (c) A freshwater fishing stamp issued in conjunction with a
 9-58 license issued under Section 46.005 or 46.0051 expires on the later
 9-59 of the license expiration date or the date printed on the stamp.

9-60 Sec. 43.807. REFUSAL TO SHOW STAMP. A person fishing in
 9-61 fresh water for sporting purposes who refuses on demand of any game
 9-62 management officer or peace officer to show a freshwater fishing
 9-63 stamp or proof that the person is exempt under Section 43.802(b) or
 9-64 a rule adopted under that section is presumed to be in violation of
 9-65 Section 43.802.

9-66 Sec. 43.808. PENALTY. A person who violates Section 43.802
 9-67 is guilty of a Class C Parks and Wildlife Code misdemeanor.

9-68 Sec. 43.809. EXPIRATION OF SUBCHAPTER. This subchapter
 9-69 expires September 1, 2014.

10-1 (b) Subchapters N and Q, Chapter 43, Parks and Wildlife
10-2 Code, are repealed.

10-3 (c) This section takes effect September 1, 2004.

10-4 SECTION 11. TRANSFER OF RAILROAD COMMISSION OF TEXAS
10-5 FUNCTIONS RELATED TO QUARRY AND PIT SAFETY. (a) On September 1,
10-6 2003:

10-7 (1) all powers, duties, functions, and activities
10-8 performed by the Railroad Commission of Texas under Chapter 133,
10-9 Natural Resources Code, immediately before that date are
10-10 transferred to the Texas Department of Transportation;

10-11 (2) all employees of the Railroad Commission of Texas
10-12 whose primary duties relate to the implementation of Chapter 133,
10-13 Natural Resources Code, become employees of the Texas Department of
10-14 Transportation;

10-15 (3) a rule, form, order, or procedure adopted by the
10-16 Railroad Commission of Texas for the implementation or enforcement
10-17 of Chapter 133, Natural Resources Code, is a rule, form, order, or
10-18 procedure of the Texas Department of Transportation and remains in
10-19 effect until changed by the Texas Department of Transportation;

10-20 (4) a reference in Chapter 133, Natural Resources
10-21 Code, to the Railroad Commission of Texas means the Texas
10-22 Department of Transportation;

10-23 (5) a permit or certification in effect under Chapter
10-24 133, Natural Resources Code, that was issued by the Railroad
10-25 Commission of Texas is continued in effect as a permit or
10-26 certification issued by the Texas Department of Transportation; and

10-27 (6) a complaint, investigation, or other proceeding
10-28 under Chapter 133, Natural Resources Code, pending before the
10-29 Railroad Commission of Texas is transferred without change in
10-30 status to the Texas Department of Transportation.

10-31 (b) This section takes effect September 1, 2003.

10-32 SECTION 12. RAILROAD COMMISSION OF TEXAS FUNCTIONS RELATED
10-33 TO RAILROAD SAFETY. (a) Article 6448a, Revised Statutes, is
10-34 amended to read as follows:

10-35 Art. 6448a. IMPLEMENTATION OF FEDERAL RAILROAD SAFETY ACT
10-36 OF 1970

10-37 Sec. 1. The Railroad Commission of Texas is hereby
10-38 authorized to perform any act and issue any rules and orders as
10-39 permitted by the Federal Railroad Safety Act of 1970 (45 U.S.C.A.
10-40 431 et seq.).

10-41 Sec. 2. (a) The Railroad Commission of Texas by rule shall
10-42 adopt reasonable fees to be assessed annually against railroads
10-43 operating within the state.

10-44 (b) The commission by rule shall establish the method by
10-45 which the fees are calculated and assessed.

10-46 (c) The total amount of fees estimated to be collected by
10-47 rules adopted by the commission under this section may not exceed
10-48 the amount estimated by the commission to be necessary to recover
10-49 the costs of administering the commission's rail safety program.

10-50 (d) In adopting a fee structure, the commission may consider
10-51 the gross ton miles for railroad operations within the State of
10-52 Texas for each railroad operating in the state to provide for the
10-53 equitable allocation among railroads of the cost of administering
10-54 the commission's rail safety program.

10-55 (e) A fee collected under this section shall be deposited to
10-56 the credit of the general revenue fund to be used for the rail
10-57 safety program.

10-58 (b) This section takes effect on September 1, 2003.

10-59 SECTION 13. RAILROAD COMMISSION OF TEXAS FUNCTIONS RELATED
10-60 TO PIPELINES. (a) Subchapter E, Chapter 121, Utilities Code, is
10-61 amended by adding Section 121.211 to read as follows:

10-62 Sec. 121.211. PIPELINE SAFETY FEES. (a) The railroad
10-63 commission by rule may adopt an inspection fee to be assessed
10-64 annually against operators of natural gas distribution pipelines
10-65 and their pipeline facilities and natural gas master metered
10-66 pipelines and their pipeline facilities subject to this chapter.

10-67 (b) The railroad commission by rule shall establish the
10-68 method by which the fee is calculated and assessed. In adopting a
10-69 fee structure, the railroad commission may consider any factors

11-1 necessary to provide for the equitable allocation among operators
 11-2 of the costs of administering the railroad commission's pipeline
 11-3 safety program under this chapter.

11-4 (c) The total amount of fees estimated to be collected under
 11-5 rules adopted by the railroad commission under this section may not
 11-6 exceed the amount estimated by the railroad commission to be
 11-7 necessary to recover the costs of administering the railroad
 11-8 commission's pipeline safety program under this chapter, excluding
 11-9 costs that are fully funded by federal sources.

11-10 (d) The railroad commission may assess each investor-owned
 11-11 and each municipally owned natural gas distribution system subject
 11-12 to this chapter an annual inspection fee not to exceed 50 cents for
 11-13 each service line reported by the system on the Distribution Annual
 11-14 Report, Form RSPA F7100.1-1, due on March 15 of each year. The fee
 11-15 is due March 15 of each year.

11-16 (e) The railroad commission may assess each operator of a
 11-17 natural gas master metered system subject to this chapter an annual
 11-18 inspection fee not to exceed \$100 for each master metered system.
 11-19 The fee is due June 30 of each year.

11-20 (f) The railroad commission may assess a late payment
 11-21 penalty of 10 percent of the total assessment due under Subsection
 11-22 (d) or (e) that is not paid within 30 days after the annual due date
 11-23 established by the applicable subsection.

11-24 (g) Each investor-owned and municipally owned natural gas
 11-25 distribution company and each natural gas master meter operator
 11-26 shall recover as a surcharge to its existing rates the amounts paid
 11-27 to the railroad commission under this section. Amounts collected
 11-28 under this subsection by an investor-owned natural gas distribution
 11-29 company shall not be included in the revenue or gross receipts of
 11-30 the company for the purpose of calculating municipal franchise fees
 11-31 or any tax imposed under Subchapter B, Chapter 182, Tax Code, or
 11-32 under Chapter 122. Those amounts are not subject to a sales and use
 11-33 tax imposed by Chapter 151, Tax Code, or Chapters 321 through 327,
 11-34 Tax Code.

11-35 (h) A fee collected under this section shall be deposited to
 11-36 the credit of the general revenue fund to be used for the pipeline
 11-37 safety program.

11-38 (b) This section takes effect September 1, 2003.

11-39 SECTION 14. SOIL AND WATER CONSERVATION BOARD. (a) Section
 11-40 201.011, Agriculture Code, is amended to read as follows:

11-41 Sec. 201.011. COMPOSITION. The State Soil and Water
 11-42 Conservation Board is a state agency composed of seven [~~five~~]
 11-43 members as follows:

11-44 (1) [~~with~~] one member elected from each of the state
 11-45 districts in accordance with this subchapter; and

11-46 (2) two members appointed by the governor, each of
 11-47 whom is:

11-48 (A) actively engaged in the business of farming,
 11-49 animal husbandry, or other business related to agriculture and who
 11-50 wholly or partly owns or leases land used in connection with that
 11-51 business; and

11-52 (B) not a member of the board of directors of a
 11-53 conservation district.

11-54 (b) Section 201.015(b), Agriculture Code, is amended to
 11-55 read as follows:

11-56 (b) The term of office of an elected [~~a~~] member of the state
 11-57 board begins on the day after the day on which the member was
 11-58 elected. The term of one member appointed by the governor expires
 11-59 February 1 of each odd-numbered year, and the term of the other
 11-60 member appointed by the governor expires February 1 of each
 11-61 even-numbered year.

11-62 (c) Section 201.016, Agriculture Code, is amended to read as
 11-63 follows:

11-64 Sec. 201.016. VACANCY. Vacancies on the state board for
 11-65 state district positions are filled by election in the manner
 11-66 provided by this subchapter for an unexpired term or for a full
 11-67 term.

11-68 (d) Subchapter B, Chapter 201, Agriculture Code, is amended
 11-69 by adding Sections 201.028 and 201.029 to read as follows:

12-1 Sec. 201.028. SEMIANNUAL REPORT. Not later than January 1
 12-2 and July 1 of each year, the state board shall prepare and deliver a
 12-3 report to the governor, the lieutenant governor, and the speaker of
 12-4 the house of representatives relating to the status of the board's
 12-5 budget areas of responsibility assigned to the board, including
 12-6 outreach programs, grants made and received, federal funding
 12-7 applied for and received, special projects, and oversight of water
 12-8 conservation district activities.

12-9 Sec. 201.029. MANAGEMENT AUDIT. Not later than March 1,
 12-10 2004, the state auditor, in coordination with the Legislative
 12-11 Budget Board, shall conduct a management audit of the State Soil and
 12-12 Water Conservation Board and deliver the audit report to the
 12-13 governor, the lieutenant governor, and the speaker of the house of
 12-14 representatives. The audit shall include an evaluation of the
 12-15 administrative budget for the board. This section expires April 1,
 12-16 2004.

12-17 (e) Sections 203.011-203.013, Agriculture Code, are amended
 12-18 to read as follows:

12-19 Sec. 203.011. AUTHORITY OF BOARD. The board has
 12-20 jurisdiction over and shall administer the brush control program
 12-21 under this chapter with the assistance of local districts.

12-22 Sec. 203.012. RULES. The board shall adopt, after
 12-23 consulting with local districts, reasonable rules that are
 12-24 necessary to carry out this chapter.

12-25 Sec. 203.013. AUTHORITY OF DISTRICTS. Each district [~~in~~
 12-26 ~~which all or part of a critical area is located~~] may carry out the
 12-27 responsibilities provided by Subchapter D of this code as delegated
 12-28 by the board [~~in that critical area~~].

12-29 (f) Section 203.016, Agriculture Code, is amended to read as
 12-30 follows:

12-31 Sec. 203.016. CONSULTATION. The board shall consult the
 12-32 Texas Water Development Board and the Texas Department of
 12-33 Agriculture in regard to the effects of the brush control program on
 12-34 water quantity and with the Parks and Wildlife Department in regard
 12-35 to the effects of the brush control program on fish and wildlife.

12-36 (g) Section 203.051, Agriculture Code, is amended to read as
 12-37 follows:

12-38 Sec. 203.051. STATE PLAN. The board shall prepare and adopt
 12-39 a state brush control plan that shall:

12-40 (1) include a comprehensive strategy for managing
 12-41 brush in all areas of the state where brush is contributing to a
 12-42 substantial water conservation problem; and

12-43 (2) rank [~~designate~~] areas [~~of critical need~~] in the
 12-44 state in need of a [~~which to implement the~~] brush control program.

12-45 (h) Sections 203.052(b), (c), and (d), Agriculture Code,
 12-46 are amended to read as follows:

12-47 (b) Not less than 30 days before the date the hearing is to
 12-48 be held, the board shall mail written notice of the hearing to each
 12-49 district in the state. The notice must:

12-50 (1) include the date and place for holding the
 12-51 hearing;

12-52 (2) include instructions for each district to submit
 12-53 comments on the proposed plan; and

12-54 (3) [~~must~~] state the purpose for holding the hearing.

12-55 (c) At the hearing, representatives of a district and any
 12-56 other person may appear and present testimony including information
 12-57 and suggestions for any changes in the proposed plan. The board
 12-58 shall:

12-59 (1) enter any written comments received on the
 12-60 proposed plan into the record of the hearing; and

12-61 (2) consider all written comments and testimony before
 12-62 taking final action on the proposed plan.

12-63 (d) After the conclusion of the hearing, the board shall
 12-64 consider the testimony including the information and suggestions
 12-65 made at the hearing and in written comments. After [~~and, after~~]
 12-66 making any changes in the proposed plan that it finds necessary, the
 12-67 board shall adopt the plan.

12-68 (i) Section 203.053, Agriculture Code, is amended to read as
 12-69 follows:

13-1 Sec. 203.053. CRITERIA FOR EVALUATING BRUSH CONTROL
13-2 [~~DESIGNATING CRITICAL~~] AREAS. (a) In ranking [~~designating~~
13-3 ~~critical~~] areas under the plan, the board shall consider:

- 13-4 (1) the location of various brush infestations;
- 13-5 (2) the type and severity of [~~various~~] brush
- 13-6 infestations;
- 13-7 (3) the various management methods that may be used to
- 13-8 control brush; [~~and~~]
- 13-9 (4) any other criteria that the board considers
- 13-10 relevant to assure that the brush control program can be most
- 13-11 effectively, efficiently, and economically implemented; and
- 13-12 (5) the amount of water produced by a project and the
- 13-13 severity of water shortage in the areas.

13-14 (b) In ranking [~~designating critical~~] areas, the board
13-15 shall give priority to areas with the most critical water
13-16 conservation needs and in which brush control and revegetation
13-17 projects will be most likely to produce substantial water
13-18 conservation.

13-19 (j) Section 203.055, Agriculture Code, is amended to read as
13-20 follows:

13-21 Sec. 203.055. APPROVED METHODS FOR BRUSH CONTROL. (a) The
13-22 board shall study and must approve all methods used to control brush
13-23 under this Act considering the overall impact the project will have
13-24 [~~within critical areas~~].

13-25 (b) The board may approve a method for use under the
13-26 cost-sharing program provided by Subchapter E of this chapter if
13-27 the board finds that the proposed method:

- 13-28 (1) has proven to be an effective and efficient method
- 13-29 for controlling brush;
- 13-30 (2) is cost efficient;
- 13-31 (3) will have a beneficial impact on the development
- 13-32 of water sources and wildlife habitat;
- 13-33 (4) will maintain topsoil to prevent erosion or
- 13-34 silting of any river or stream; and
- 13-35 (5) will allow the revegetation of the area after the
- 13-36 brush is removed with plants that are beneficial to stream flows,
- 13-37 groundwater levels, livestock, and wildlife.

13-38 (k) Section 203.101, Agriculture Code, is amended to read as
13-39 follows:

13-40 Sec. 203.101. GENERAL AUTHORITY. Each district may
13-41 administer the aspects of the brush control program [~~within any~~
13-42 ~~critical area~~] located within the jurisdiction of that district.

13-43 (l) Section 203.154, Agriculture Code, is amended by
13-44 amending Subsections (a) and (c) and by adding Subsection (d) to
13-45 read as follows:

13-46 (a) Not more than 70 [~~80~~] percent of the total cost of a
13-47 single brush control project may be made available as the state's
13-48 share in cost sharing.

13-49 (c) The board may grant an exception to Subsection (b) of
13-50 this section if the board finds that joint participation of the
13-51 state brush control program and any federal brush control program
13-52 will:

- 13-53 (1) enhance the efficiency and effectiveness of a
- 13-54 project; [~~and~~]
- 13-55 (2) lessen the state's financial commitment to the
- 13-56 project; and
- 13-57 (3) not exceed 80 percent of the total cost of the
- 13-58 project.

13-59 (d) A political subdivision of this state is eligible for
13-60 cost sharing under the brush control program as long as the state's
13-61 share does not exceed 50 percent of any one project.

13-62 (m) Sections 203.156-203.158, Agriculture Code, are amended
13-63 to read as follows:

13-64 Sec. 203.156. APPLICATION FOR COST SHARING. A person,
13-65 including a political subdivision of this state, who desires to
13-66 participate with the state in a brush control project and to obtain
13-67 cost-sharing participation by the state shall file an application
13-68 with the district board in the district in which the land on which
13-69 the project is to be accomplished is located. The application must

14-1 be in the form provided by board rules.

14-2 Sec. 203.157. CONSIDERATIONS IN PASSING ON APPLICATION. In
14-3 passing on an application for cost sharing, the board shall
14-4 consider:

14-5 (1) the location of [whether] the project [is to be
14-6 carried out in a critical area];

14-7 (2) the method of control that is to be used by the
14-8 project applicant;

14-9 (3) the plans for revegetation;

14-10 (4) the total cost of the project;

14-11 (5) the amount of land to be included in the project;

14-12 (6) whether the applicant for the project is
14-13 financially able to provide his share of the money for the project;

14-14 (7) the cost-share percentage, if an applicant agrees
14-15 to a higher degree of financial commitment;

14-16 (8) any comments and recommendations submitted by a
14-17 local district, the Texas Water Development Board, or [of] the
14-18 Parks and Wildlife Department; and

14-19 (9) any other pertinent information considered
14-20 necessary by the board.

14-21 Sec. 203.158. APPROVAL OF APPLICATION. The board may
14-22 approve an application if, after considering the factors listed in
14-23 Section 203.157 of this code and any other relevant factors, the
14-24 board finds:

14-25 (1) the owner of the land fully agrees to cooperate in
14-26 the project;

14-27 (2) the method of eradication is a method approved by
14-28 the board under Section 203.055 of this code; and

14-29 (3) the project ranks higher than other projects
14-30 submitted in accordance with [is to be carried out in a critical
14-31 area designated under] the board's plan.

14-32 (n) Sections 203.159(a) and (c), Agriculture Code, are
14-33 amended to read as follows:

14-34 (a) If the demand for funds under the cost-sharing program
14-35 is greater than funds available, the board shall [may] establish
14-36 priorities favoring the areas with the most critical water
14-37 conservation needs and projects that will be most likely to produce
14-38 substantial water conservation.

14-39 (c) The board shall consider quantity of stream flows, the
14-40 quantity of groundwater, and the amount of [land dedicated to the
14-41 project that will produce significant] water conservation from the
14-42 eradication of brush each to be [is] a priority.

14-43 (o) Sections 203.001(5) and 203.155, Agriculture Code, are
14-44 repealed.

14-45 (p) In making initial appointments to the State Soil and
14-46 Water Conservation Board under Section 201.011, Agriculture Code,
14-47 as amended by this section, the governor shall designate one member
14-48 to serve a term expiring February 1, 2004, and the other member to
14-49 serve a term expiring February 1, 2005.

14-50 (q) The State Soil and Water Conservation Board shall
14-51 prepare and deliver the first report required by Section 201.028,
14-52 Agriculture Code, as added by this section, not later than January
14-53 1, 2004.

14-54 (r) This section takes effect September 1, 2003.

14-55 SECTION 15. EFFECTIVE DATE. This Act takes effect
14-56 immediately if it receives a vote of two-thirds of all the members
14-57 elected to each house, as provided by Section 39, Article III, Texas
14-58 Constitution. If this Act does not receive the vote necessary for
14-59 immediate effect, this Act takes effect September 1, 2003.

14-60 * * * * *