

By: Nelson

S.B. No. 280

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Workforce Commission and to local workforce development boards.

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

ARTICLE 1. CONTINUATION OF COMMISSION; GUIDELINES REGARDING FUNCTIONS OF COMMISSION AND STAFF

SECTION 1.01. Subchapter A, Chapter 301, Labor Code, is amended by adding Section 301.0015 and amending Section 301.008 to read as follows:

Sec. 301.0015. GUIDELINES REGARDING FUNCTIONS OF COMMISSION AND STAFF. (a) In administering its functions under this title or another law, the commission shall limit its activities to:

(1) setting the general policies for the operation of the commission and the commission staff, including policies that clearly separate the policymaking responsibilities of the commission and the management responsibilities of the executive director and other commission staff;

(2) giving general direction to the executive director and other commission staff regarding the implementation of the commission's policies, and holding the executive director accountable for implementing the policies;

(3) approving the commission's budget recommendation to the legislature;

1 (4) reviewing under Subchapter D, Chapter 212, the
2 decision of an appeal tribunal regarding unemployment
3 compensation;

4 (5) adopting rules and making the general decisions
5 necessary to administer the commission's policies, including rules
6 necessary for the administration of this title and rules governing
7 required reports, procedures, and orders;

8 (6) responding to questions and comments that are
9 directed to the commission by the commission staff and that relate
10 to setting or clarifying commission policies or relate to other
11 matters of general interest to the commission; and

12 (7) commenting on matters of general interest to the
13 commission.

14 (b) In administering its functions under this title or
15 another law, the commission may not:

16 (1) direct the day-to-day operations of the executive
17 director or other commission staff; or

18 (2) establish the details for the implementation of
19 commission policies or direct the executive director or other
20 commission staff about those details.

21 Sec. 301.008. APPLICATION OF SUNSET ACT. The Texas
22 Workforce Commission is subject to Chapter 325, Government Code
23 (Texas Sunset Act). Unless continued in existence as provided by
24 that chapter, the commission is abolished September 1, 2009 [~~2003~~].

25 ARTICLE 2. MEMBERSHIP ON GOVERNING BODY OF COMMISSION

26 SECTION 2.01. Subsection (a), Section 301.002, Labor Code,
27 is amended to read as follows:

1 (a) The commission is composed of three members:

2 (1) one member who is [~~of whom shall be~~] a
3 representative of labor;

4 (2) one member who is [~~of whom shall be~~] a
5 representative of employers; and

6 (3) one member who is a representative of [~~whom shall~~
7 ~~represent~~] the public.

8 SECTION 2.02. Section 301.003, Labor Code, is amended to
9 read as follows:

10 Sec. 301.003. MEMBER RESTRICTIONS. (a) In this section,
11 "Texas trade association" means a cooperative and voluntarily
12 joined statewide association of business or professional
13 competitors in this state designed to assist its members and its
14 industry or profession in dealing with mutual business or
15 professional problems and in promoting their common interest [~~A~~
16 ~~member of the commission may not engage in any other business,~~
17 ~~vocation, or employment during the member's term on the~~
18 ~~commission)].~~

19 (b) A person may not serve as a member of the commission if
20 the person or the person's spouse:

21 (1) is employed by or participates in the management
22 of a business entity or other organization receiving money from the
23 commission;

24 (2) owns or controls, directly or indirectly, more
25 than a 10 percent interest in a business entity or other
26 organization receiving money from the commission; or

27 (3) is registered, certified, or licensed by a

1 regulatory agency in the field of career schools and colleges.

2 (c) [~~(b)~~] The public member of the commission or the
3 member's spouse may not be an officer, employee, or paid consultant
4 of a Texas trade association in the field of labor or business
5 [~~labor-oriented or employer-oriented trade association while the~~
6 ~~member serves on the commission~~].

7 SECTION 2.03. Section 301.004, Labor Code, is amended to
8 read as follows:

9 Sec. 301.004. EFFECT OF LOBBYING ACTIVITY. A person [~~who is~~
10 ~~required to register as a lobbyist under Chapter 305, Government~~
11 ~~Code,~~] may not be [~~serve as~~] a member of the commission or act as the
12 general counsel to the commission if the person is required to
13 register as a lobbyist under Chapter 305, Government Code, because
14 of the person's activities for compensation on behalf of a
15 profession related to the operation of the commission [~~while so~~
16 ~~registered~~]. If the person ceases to engage in lobbying activity
17 and files a notice of termination as prescribed by Section 305.008,
18 Government Code, the person may serve as a member of the commission
19 or act as the general counsel to the commission.

20 SECTION 2.04. Subsection (a), Section 301.006, Labor Code,
21 as renumbered from Section 202.005, Labor Code, by Section 11.02,
22 Chapter 655, Acts of the 74th Legislature, Regular Session, 1995,
23 is amended to read as follows:

24 (a) The governor shall designate the chair of the commission
25 from among the members of the commission. The chair shall serve in
26 that capacity at the pleasure of the governor for a two-year term.
27 The governor may redesignate the same member to serve consecutive

1 terms.

2 SECTION 2.05. Section 301.007, Labor Code, is amended by
3 amending Subsection (a) and adding Subsection (c) to read as
4 follows:

5 (a) It is a ground for removal from the commission [~~by~~
6 ~~impeachment~~] that a member:

7 (1) during any 60-day period, is absent from each
8 commission meeting for which the member received at least 48 hours'
9 notice;

10 (2) does not have at the time of taking office the
11 qualifications required by Section 301.002 [~~is unable to discharge~~
12 ~~the member's duties for the remainder of the term for which the~~
13 ~~member was appointed because of illness or other disability~~]; [~~or~~]

14 (3) does not maintain during service as a member of the
15 commission the qualifications required by Section 301.002;

16 (4) is ineligible for membership on the commission
17 under Section 301.003 or 301.004;

18 (5) cannot, because of illness or disability,
19 discharge the member's duties for a substantial part of the member's
20 term; or

21 (6) is absent from more than half of the regularly
22 scheduled meetings of the members that the member is eligible to
23 attend during a calendar year without an excuse approved by a
24 majority vote of the members [~~violates a prohibition established by~~
25 ~~Section 301.003 or 301.004~~].

26 (c) If the executive director has knowledge that a potential
27 ground for removal exists, the executive director shall notify the

1 chair of the potential ground. The chair shall then notify the
2 governor and the attorney general that a potential ground for
3 removal exists. If the potential ground for removal involves the
4 chair, the executive director shall notify the next highest ranking
5 member, who shall then notify the governor and the attorney general
6 that a potential ground for removal exists.

7 SECTION 2.06. Subchapter A, Chapter 301, Labor Code, is
8 amended by adding Section 301.0075 to read as follows:

9 Sec. 301.0075. MEMBER TRAINING. (a) A person who is
10 appointed to and qualifies for office as a member of the commission
11 may not vote, deliberate, or be counted as a member in attendance at
12 a meeting of the members until the person completes a training
13 program that complies with this section.

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

- 16 (1) the legislation that created the commission;
17 (2) the programs operated by the commission;
18 (3) the role and functions of the commission;
19 (4) the rules of the commission, with an emphasis on
20 the rules that relate to disciplinary and investigatory authority;
21 (5) the current budget for the commission;
22 (6) the results of the most recent formal audit of the
23 commission;
24 (7) the requirements of:
25 (A) the open meetings law, Chapter 551,
26 Government Code;
27 (B) the public information law, Chapter 552,

1 Government Code;

2 (C) the administrative procedure law, Chapter
3 2001, Government Code; and

4 (D) other laws relating to public officials,
5 including conflict-of-interest laws; and

6 (8) any applicable ethics policies adopted by the
7 commission or the Texas Ethics Commission.

8 (c) A person appointed as a member of the commission is
9 entitled to reimbursement, as provided by the General
10 Appropriations Act, for the travel expenses incurred in attending
11 the training program regardless of whether the attendance at the
12 program occurs before or after the person qualifies for office.

13 SECTION 2.07. The changes in law made by this article in the
14 prohibitions or qualifications applying to members of the Texas
15 Workforce Commission do not affect the entitlement of a member
16 serving immediately before September 1, 2003, to continue to serve
17 and function as a member for the remainder of the member's term.
18 Those changes in law apply only to a member appointed on or after
19 September 1, 2003.

20 ARTICLE 3. POWERS AND DUTIES

21 SECTION 3.01. Section 301.023, Labor Code, is amended to
22 read as follows:

23 Sec. 301.023. COMPLAINTS AGAINST COMMISSION. (a) The
24 commission shall maintain a file on each written complaint filed
25 with the commission. The file must include:

26 (1) the name of the person who filed the complaint;

27 (2) the date the complaint is received by the

1 commission;

2 (3) the subject matter of the complaint;

3 (4) the name of each person contacted in relation to
4 the complaint;

5 (5) a summary of the results of the review or
6 investigation of the complaint; and

7 (6) an explanation of the reason the file was closed,
8 if the commission closed the file without taking action other than
9 to investigate the complaint [~~keep an information file about each~~
10 ~~complaint filed with the commission that relates to a service~~
11 ~~provided by the commission)].~~

12 (b) The commission shall provide to the person filing the
13 complaint and to each person who is a subject of the complaint a
14 copy of the commission's policies and procedures relating to
15 complaint investigation and resolution.

16 (c) The commission, at least quarterly until final
17 disposition of the complaint, shall notify the person filing the
18 complaint and each person who is a subject of the complaint of the
19 status of the investigation unless the notice would jeopardize an
20 undercover investigation [~~If a written complaint is filed with the~~
21 ~~commission that relates to a service provided by the commission,~~
22 ~~the commission, at least quarterly and until final disposition of~~
23 ~~the complaint, shall notify the parties to the complaint of the~~
24 ~~status of the complaint)].~~

25 SECTION 3.02. Section 301.043, Labor Code, is amended to
26 read as follows:

27 Sec. 301.043. STANDARDS OF CONDUCT INFORMATION. The

1 executive director or the executive director's designee shall
2 provide to the members of the commission and employees of the
3 commission, as often as necessary, information regarding the
4 requirements for office or employment under this chapter, including
5 information regarding a person's ~~[their]~~ responsibilities under
6 applicable laws relating to standards of conduct for state officers
7 or employees.

8 SECTION 3.03. Section 301.045, Labor Code, is amended by
9 amending Subsections (a) and (b) and adding Subsection (a-1) to
10 read as follows:

11 (a) The executive director or the executive director's
12 designee shall prepare and maintain a written policy statement that
13 implements ~~[to ensure implementation of]~~ a program of equal
14 employment opportunity to ensure that ~~[under which]~~ all personnel
15 decisions ~~[transactions]~~ are made without regard to race, color,
16 disability, sex, religion, age, or national origin.

17 (a-1) The policy statement must include:

18 (1) personnel policies, including policies relating
19 to recruitment, evaluation, selection, ~~[appointment,~~ training,
20 and promotion of personnel, that show the intent of the commission
21 to avoid the unlawful employment practices described by ~~[are in~~
22 ~~compliance with]~~ Chapter 21; and

23 (2) an ~~[a comprehensive]~~ analysis of the extent to
24 which the composition of the commission's personnel is in
25 accordance with state and ~~[workforce that meets]~~ federal law and a
26 description of ~~[and state guidelines,~~

27 ~~[(3) procedures by which a determination can be made~~

1 ~~of significant underuse in the commission's workforce of all~~
2 ~~persons for whom federal or state guidelines encourage a more~~
3 ~~equitable balance; and~~

4 ~~[(4)]~~ reasonable methods to achieve compliance with
5 state and federal law ~~[to appropriately address those areas of~~
6 ~~underuse]~~.

7 (b) The [A] policy statement ~~[under Subsection (a)]~~ must:

8 (1) ~~[cover an annual period,~~ be updated annually;

9 (2) ~~[r]~~ be reviewed by the Commission on Human Rights
10 for compliance with Subsection (a-1)(1); ~~[(a),]~~ and

11 (3) be filed with the governor's office.

12 SECTION 3.04. Subchapter C, Chapter 301, Labor Code, is
13 amended by adding Sections 301.046 and 301.047 to read as follows:

14 Sec. 301.046. STATE EMPLOYEE INCENTIVE PROGRAM INFORMATION
15 AND TRAINING. The executive director or the executive director's
16 designee shall provide to commission employees information and
17 training on the benefits and methods of participation in the state
18 employee incentives program.

19 Sec. 301.047. COMMISSION EMPLOYEES ACCOUNTABLE TO
20 EXECUTIVE DIRECTOR. In performing functions required or authorized
21 by law, employees of the commission are directly accountable to the
22 executive director.

23 SECTION 3.05. The heading to Section 301.061, Labor Code,
24 is amended to read as follows:

25 Sec. 301.061. GENERAL POWERS AND DUTIES OF COMMISSION AND
26 EXECUTIVE DIRECTOR.

27 SECTION 3.06. Subsections (a) and (b), Section 301.061,

1 Labor Code, are amended to read as follows:

2 (a) The commission shall provide the public with a
3 reasonable opportunity to appear before the commission and speak on
4 any issue under the jurisdiction of the commission [~~adopt rules as~~
5 ~~necessary for the administration of this title~~].

6 (b) The executive director shall:

7 (1) administer this title as provided by rules adopted
8 by the commission;

9 (2) manage:

10 (A) the administrative affairs of the commission
11 under the general supervision of the commission;

12 (B) the implementation of commission policies
13 set by the commission; and

14 (C) the daily operation of the commission;

15 (3) coordinate the activities of the commission staff
16 and hold commission staff accountable for the staff's performance
17 of its duties;

18 (4) organize the administrative sections and
19 divisions of the commission [~~determine the organization of the~~
20 ~~agency and methods of procedure of the agency in accordance with~~
21 ~~this title~~]; and

22 (5) [~~3~~] make expenditures necessary for the
23 operation of this title.

24 SECTION 3.07. Subchapter D, Chapter 301, Labor Code, is
25 amended by adding Sections 301.0681, 301.0682, and 301.069 to read
26 as follows:

27 Sec. 301.0681. POLICY ON TECHNOLOGICAL SOLUTIONS. The

1 commission shall develop and implement a policy requiring the
2 executive director and commission employees to research and propose
3 appropriate technological solutions to improve the commission's
4 ability to perform its functions. The technological solutions
5 must:

6 (1) ensure that:

7 (A) the public is able to easily find information
8 about the commission on the Internet; and

9 (B) persons who want to use the commission's
10 services are able to:

11 (i) interact with the commission through
12 the Internet; and

13 (ii) access any service that can be
14 provided effectively through the Internet;

15 (2) be cost-effective; and

16 (3) be developed through the commission's planning
17 processes.

18 Sec. 301.0682. NEGOTIATED RULEMAKING AND ALTERNATIVE
19 DISPUTE RESOLUTION POLICY. (a) The commission shall develop and
20 implement a policy to encourage the use of:

21 (1) negotiated rulemaking procedures under Chapter
22 2008, Government Code, for the adoption of the commission's rules;
23 and

24 (2) appropriate alternative dispute resolution
25 procedures under Chapter 2009, Government Code, to assist in the
26 resolution of internal and external disputes under the commission's
27 jurisdiction, other than proceedings conducted by the commission

1 under Title 2 and this title of this code that are not subject to
2 Subchapters C-H, Chapter 2001, Government Code.

3 (b) The commission's procedures relating to alternative
4 dispute resolution must conform, to the extent possible, to any
5 model guidelines issued by the State Office of Administrative
6 Hearings for the use of alternative dispute resolution by state
7 agencies.

8 (c) The commission shall designate a trained person to:

9 (1) coordinate the implementation of the policy
10 developed under Subsection (a);

11 (2) serve as a resource for any training needed to
12 implement the procedures for negotiated rulemaking or alternative
13 dispute resolution; and

14 (3) collect data concerning the effectiveness of those
15 procedures, as implemented by the commission.

16 Sec. 301.069. PARTNERSHIP WITH BUSINESS COMMUNITY. To meet
17 the needs of businesses in this state and to equip workers and job
18 seekers with the skills required to compete for jobs in this state,
19 the commission shall:

20 (1) partner with the business community to:

21 (A) identify:

22 (i) skills required by the business
23 community;

24 (ii) key industry sectors in the business
25 community that are likely to benefit from skill development
26 services and programs offered by the commission; and

27 (iii) employment opportunities offered by

1 the business community; and

2 (B) develop services and programs that are
3 designed to equip workers and job seekers with the skills required
4 by the business community; and

5 (2) support business and community economic
6 development activities of local workforce development boards and
7 the state.

8 SECTION 3.071. Section 2308.264, Government Code, is
9 amended to read as follows:

10 Sec. 2308.264. CONTRACTING FOR SERVICE DELIVERY. (a) A
11 board may not directly provide workforce training and services. A
12 board may not act as a fiscal agent for any entity with which the
13 board contracts to provide one-stop services.

14 (b) When contracting for the provision of one-stop
15 services, a board must:

16 (1) ensure that the contractor has fiscal controls and
17 fund accounting procedures in place necessary to guarantee the
18 proper disbursement of and accounting for federal and state funds;

19 (2) require the contractor to guarantee sufficient
20 insurance, bonding, and liability coverage for the overall
21 financial security of workforce training and services funds and
22 operations;

23 (3) ensure that all contracts involving the provision
24 of one-stop services, whether the board is a signatory or a
25 third-party beneficiary, strictly comply with Section 2308.267(b);
26 and

27 (4) ensure that no contract involves the provision of

1 one-stop services through an independent contractor who does not
2 directly employ staff, have direction or control over employee
3 staff, or have the right to hire, fire, discipline, and reassign
4 staff that provide the workforce training and services. An
5 independent contractor is authorized to be a client of a
6 professional employment organization holding a license pursuant to
7 Chapter 91, Labor Code.

8 (c) A board may request from the Texas Workforce Commission
9 ~~[council]~~ a waiver of the requirements of this section ~~[Subsection~~
10 ~~(a)]~~.

11 (d) ~~(c)~~ The request for a waiver must include a detailed
12 justification based on the lack of an existing qualified
13 alternative for delivery of workforce training and services in the
14 workforce development area.

15 (e) ~~(d)~~ If the board receives a waiver to provide
16 workforce training and services, the evaluation of results and
17 outcomes is provided by the Texas Workforce Commission ~~[council]~~.

18 (f) The Texas Workforce Commission shall establish
19 guidelines defining the financial security sufficient to comply
20 with this section.

21 (g) The Texas Workforce Commission shall ensure that boards
22 are in compliance with this section and shall not approve a plan
23 that does not comply with this section.

24 SECTION 3.072. Subsections (b) and (c), Section 2308.267,
25 Government Code, are amended to read as follows:

26 (b) A board's staff shall be separate from and independent
27 of any organization providing workforce education or workforce

1 training and services in the workforce development area. Board
2 staff shall not direct or control the staffing of any entity
3 providing one-stop services.

4 (c) The requirement for separate staffing does not preclude
5 a board from designating a qualified organization to provide staff
6 services to the board if the board:

7 (1) arranges for independent evaluation of any other
8 workforce services provided by the staffing organization; and

9 (2) requests and obtains from the Texas Workforce
10 Commission [~~council~~] a waiver of the separate staffing requirement
11 and the requirements under Section 2308.264.

12 SECTION 3.08. The changes in law made by this article to
13 Section 301.023, Labor Code, apply only to a written complaint
14 filed with the Texas Workforce Commission on or after the effective
15 date of this Act, regardless of whether the conduct or act that is
16 the subject of the complaint occurred or was committed before, on,
17 or after the effective date of this Act.

18 SECTION 3.09. The Texas Workforce Commission shall
19 implement Sections 301.046, 301.0681, 301.0682, and 301.069, as
20 added by this article, not later than February 1, 2004.

21 ARTICLE 4. WORKFORCE DEVELOPMENT

22 SECTION 4.01. Subsection (a), Section 302.006, Labor Code,
23 is amended to read as follows:

24 (a) The commission may [~~shall~~] develop and administer a
25 program under which the commission awards scholarships in the
26 amount of \$1,000 each for professional child-care training to
27 eligible recipients.

1 SECTION 4.02. Subchapter A, Chapter 302, Labor Code, is
2 amended by adding Sections 302.0042, 302.0043, and 302.013 to read
3 as follows:

4 Sec. 302.0042. EVALUATION OF ALLOCATION FORMULAS FOR CHILD
5 CARE DEVELOPMENT FUNDS. (a) The commission shall annually
6 evaluate the formulas used by the commission to distribute federal
7 child care development funds to local workforce development boards
8 in order to ensure that the formulas address the child care needs of
9 each local workforce development board.

10 (b) The commission's evaluation must assess:

11 (1) the use of current federal child care funds by each
12 local workforce development board;

13 (2) the ability of each local workforce development
14 board to meet child care performance measures;

15 (3) the average cost of child care in each local
16 workforce development area;

17 (4) the poverty rate of each local workforce
18 development area compared to the state's poverty rate;

19 (5) the number of children on waiting lists for child
20 care in each local workforce development area; and

21 (6) the number of vacant slots available for child
22 care placement in each local workforce development area.

23 Sec. 302.0043. EVALUATION OF EMPLOYMENT OUTCOMES OF PARENTS
24 RECEIVING SUBSIDIZED CHILD CARE. (a) To evaluate the
25 effectiveness of the commission's child care program in helping
26 parents who receive subsidized child care to maintain employment,
27 the commission shall compile, regarding each parent receiving

1 subsidized child care from the commission's child care program, the
2 following information regarding the wage and employment status of
3 the parent:

4 (1) if the parent receives both financial assistance
5 under Chapter 31, Human Resources Code, and subsidized child care,
6 whether the parent:

7 (A) finds employment; and

8 (B) maintains the parent's employment after one
9 year;

10 (2) if the parent receives only subsidized child care,
11 whether the parent:

12 (A) maintains the parent's employment; and

13 (B) experiences a change in the parent's earnings
14 after one year of employment; and

15 (3) if the parent leaves the child care program:

16 (A) the parent's reason for leaving the program;
17 and

18 (B) whether the parent returns to financial
19 assistance under Chapter 31, Human Resources Code, or becomes a
20 recipient of financial assistance under that chapter for the first
21 time.

22 (b) The commission may use the wage and employment records
23 of the parents to determine the employment outcome of the parents.

24 (c) The commission shall periodically analyze the
25 information collected by the commission under this section and
26 shall compile its findings regarding the effectiveness of the
27 commission's child care program in helping parents receiving

1 subsidized child care to maintain employment or to move toward
2 self-sufficiency.

3 (d) The commission shall make the information collected by
4 the commission and the commission's findings available to local
5 workforce development boards.

6 (e) Not later than January 15 of each odd-numbered year, the
7 commission shall report to the legislature regarding the
8 commission's findings regarding the effectiveness of the
9 commission's child care program.

10 Sec. 302.013. LOCAL WORKFORCE DEVELOPMENT BOARD ADVISORY
11 COMMITTEE. (a) In this section, "advisory committee" means the
12 local workforce development board advisory committee created under
13 this section.

14 (b) The organization composed of a member of and the staff
15 director of each local workforce development board in this state
16 shall establish a local workforce development board advisory
17 committee composed of nine members appointed by the executive
18 officers of that organization.

19 (c) The advisory committee shall be composed of:

20 (1) six members of local workforce development boards
21 who serve as members of the organization described by Subsection
22 (b); and

23 (2) three staff directors of local workforce
24 development boards who serve as members of the organization
25 described by Subsection (b).

26 (d) The members of the advisory committee must represent
27 different geographic areas of the state.

1 (e) The advisory committee shall:

2 (1) meet at least quarterly;

3 (2) report to the commission at least annually; and

4 (3) advise the commission and commission staff
5 regarding the programs, policies, and rules of the commission that
6 affect the operations of local workforce development boards and the
7 local workforce delivery system.

8 SECTION 4.03. Subchapter C, Chapter 302, Labor Code, is
9 amended by adding Section 302.048 to read as follows:

10 Sec. 302.048. ASSESSMENT OF LOCAL WORKFORCE DEVELOPMENT
11 BOARD'S CAPACITY TO OVERSEE AND MANAGE LOCAL FUNDS AND DELIVERY OF
12 SERVICES. (a) In consultation with local workforce development
13 boards, the commission by rule shall establish criteria to be used
14 by the commission to evaluate each local workforce development
15 board's overall capacity to oversee and manage local funds and the
16 delivery of local workforce services.

17 (b) The criteria established under Subsection (a) must
18 address a local workforce development board's ability to:

19 (1) develop, maintain, and upgrade comprehensive
20 fiscal management systems;

21 (2) hire, train, and retain qualified staff to carry
22 out the board's oversight activities;

23 (3) select and oversee local contractors to improve
24 the delivery of workforce services;

25 (4) oversee and improve the operations of local career
26 development centers in the area served by the board;

27 (5) manage the contractors' performance across

1 multiple board programs; and

2 (6) identify and resolve long-standing oversight
3 problems of the board and performance problems of contract
4 providers.

5 (c) Based on the criteria prescribed under this section, the
6 commission shall develop performance measures to be used by the
7 commission to evaluate each local workforce development board and
8 each local career center.

9 (d) The commission shall post the results of the
10 commission's evaluation of each local workforce development board
11 and each local career development center on the commission's
12 Internet website in a format that is readily accessible to and
13 understandable by a member of the public.

14 SECTION 4.04. Subchapter D, Chapter 302, Labor Code, is
15 amended by adding Section 302.065 to read as follows:

16 Sec. 302.065. INTEGRATION OF BLOCK GRANT PROGRAMS AND
17 WORKFORCE SERVICES. (a) To streamline the delivery of services
18 provided in local career development centers, the local workforce
19 boards shall integrate the operation of block grant programs and
20 workforce services.

21 (b) The commission, in consultation with local workforce
22 development boards, shall ensure that state-level rules, policies,
23 procedures, and organizational structures support the integration
24 of workforce services and related support services at the local
25 level.

26 (c) To the greatest extent possible and using existing
27 resources, each local career development center that provides

1 workforce services shall provide:

2 (1) an integrated eligibility determination for
3 workforce services; and

4 (2) integrated case management for a customer
5 receiving workforce services.

6 SECTION 4.05. The Texas Workforce Commission shall adopt
7 rules to establish criteria to be used to evaluate each local
8 workforce development board as required by Section 302.048, Labor
9 Code, as added by this article, not later than May 1, 2004.

10 SECTION 4.06. The Texas Workforce Commission shall
11 implement Section 302.048, Labor Code, as added by this article,
12 not later than September 1, 2004.

13 SECTION 4.07. The Texas Workforce Commission shall
14 implement Sections 302.0042 and 302.0043, Labor Code, as added by
15 this article, as soon as possible after the effective date of this
16 Act.

17 SECTION 4.08. (a) Not later than September 1, 2004, the
18 Texas Workforce Commission shall:

19 (1) conduct a review of the commission's programs,
20 rules, policies, procedures, and organizational structure to
21 identify specific barriers to the integration by the commission of
22 federal block grant programs and the caseworker functions
23 associated with those programs;

24 (2) conduct at least three and not more than five pilot
25 projects in different local workforce development board areas to
26 identify the best methods to integrate federal block grant programs
27 and the caseworker functions associated with those programs; and

1 (3) modify and develop the commission's programs,
2 rules, policies, procedures, and organizational structure to
3 support the integration by the commission of federal block grant
4 programs and the caseworker functions associated with those
5 programs.

6 (b) The commission may request a waiver of any federal
7 requirement from a federal agency if the commission determines that
8 the waiver is necessary for the implementation of this section.

9 (c) Not later than January 15, 2005, the Texas Workforce
10 Commission shall submit to the 79th Legislature a report regarding
11 the results of the review and pilot projects conducted by the
12 commission under Subsection (a) of this section. The report must
13 include the commission's recommendations for any statutory changes
14 required to facilitate the integration by the commission of federal
15 block grant programs and the caseworker functions associated with
16 those programs.

17 ARTICLE 5. ADULT EDUCATION AND LITERACY ISSUES

18 SECTION 5.01. Chapter 301, Labor Code, is amended by adding
19 Subchapter I to read as follows:

20 SUBCHAPTER I. ADULT EDUCATION AND LITERACY

21 Sec. 301.151. COOPERATION WITH TEXAS EDUCATION AGENCY TO
22 IMPROVE ADULT EDUCATION AND LITERACY SERVICES. The commission
23 shall collaborate with the Texas Education Agency to improve the
24 coordination and implementation of adult education and literacy
25 services in this state.

26 Sec. 301.152. DEVELOPMENT OF WORKPLACE LITERACY AND BASIC
27 SKILLS CURRICULUM. (a) Under contract with the Texas Education

1 Agency, the commission shall develop a demand-driven workplace
2 literacy and basic skills curriculum aimed at assisting local
3 workforce development boards to equip workers and job seekers with
4 the skills necessary to compete for current and emerging jobs in
5 this state.

6 (b) In developing the general curriculum required by
7 Subsection (a), the commission shall:

8 (1) evaluate existing efforts and potential cost
9 savings resulting from designing specific curricula that address
10 the needs of various industry sectors in the business community;

11 (2) contract for field work to solicit the assistance
12 of workers, employers, providers, and local workforce development
13 boards in developing industry sector curricula;

14 (3) target up to five industry sectors in the business
15 community that are likely to benefit from the development of
16 specific curricula; and

17 (4) pilot test the curricula within the targeted
18 industry sectors and adjust the curricula based on feedback
19 received from workers and employers in those sectors.

20 (c) Based on the curriculum developed under this section,
21 the commission shall develop workforce basic skills credentials to
22 be used to define, measure, and certify the mastery of the basic
23 skills required by the curricula developed under this section.

24 (d) This section expires September 1, 2005.

25 SECTION 5.02. Subsection (a), Section 302.021, Labor Code,
26 is amended to read as follows:

27 (a) The following job-training, employment, and

1 employment-related educational programs and functions are
2 consolidated under the authority of the division:

3 (1) career [~~adult education programs under Subchapter~~
4 ~~H, Chapter 29, Education Code,~~

5 [~~(2) proprietary~~] school and college programs under
6 Chapter 132, Education Code;

7 (2) [(3)] apprenticeship programs under Chapter 133,
8 Education Code;

9 (3) [(4)] postsecondary vocational and technical
10 job-training programs that are not a part of approved courses or
11 programs that lead to licensing, certification, or an associate
12 degree under Chapters 61, 130, and 135, Education Code, Subchapter
13 E, Chapter 88, Education Code, and Subchapter E, Chapter 96,
14 Education Code;

15 (4) [(5)] employment programs under Chapter 31, Human
16 Resources Code;

17 (5) [(6)] the senior citizens employment program
18 under Chapter 101, Human Resources Code;

19 (6) [(7)] the work and family policies program under
20 Chapter 81;

21 (7) [(8)] job-training programs funded under [~~the Job~~
22 ~~Training Partnership Act (29 U.S.C. Section 1501 et seq.) and~~
23 ~~under~~] the Workforce Investment Act of 1998 (29 U.S.C. Section 2801
24 et seq.);

25 (8) [(9)] the job counseling program for displaced
26 homemakers under Chapter 304;

27 (9) [(10)] the reintegration of offenders program

1 under Chapter 306;

2 (10) [~~(11)~~] the inmate employment counseling program
3 [~~under Section 499.051(f), Government Code~~];

4 (11) [~~(12)~~] the continuity of care program under
5 Section 501.095, Government Code;

6 (12) [~~(13)~~] a literacy program from state, local,
7 federal, and private funds available to the state for that purpose;

8 (13) [~~(14)~~] the employment service;

9 (14) [~~(15)~~] the community service program under the
10 National and Community Service Act of 1990 (42 U.S.C. Section 12501
11 et seq.);

12 (15) [~~(16)~~] the trade adjustment assistance program
13 under Part 2, Subchapter II, Trade Act of 1974 (19 U.S.C. Section
14 2271 et seq.);

15 (16) [~~(17)~~] education, employment, employment
16 support, training services, activities and programs funded under
17 Temporary Assistance for Needy Families (42 U.S.C. Section 601 et
18 seq.);

19 (17) [~~(18)~~] the food stamp employment and training
20 program authorized under 7 U.S.C. Section 2015(d); and

21 (18) [~~(19)~~] the functions of the State Occupational
22 Information Coordinating Committee.

23 SECTION 5.03. Section 29.252, Education Code, is amended by
24 amending Subsection (a) and adding Subsection (a-1) to read as
25 follows:

26 (a) The agency shall:

27 (1) provide adequate staffing to develop, administer,

1 and support a comprehensive statewide adult education program and
2 coordinate related federal and state programs for education and
3 training of adults;

4 (2) develop, implement, and regulate a comprehensive
5 statewide program for community level education services to meet
6 the special needs of adults;

7 (3) develop the mechanism and guidelines for
8 coordination of comprehensive adult education and related skill
9 training services for adults with other agencies, both public and
10 private, in planning, developing, and implementing related
11 programs, including community education programs;

12 (4) administer all state and federal funds for adult
13 education and related skill training in this state, except in
14 programs for which another entity is specifically authorized to do
15 so under other law;

16 (5) prescribe and administer standards and
17 accrediting policies for adult education;

18 (6) prescribe and administer rules for teacher
19 certification for adult education;

20 (7) accept and administer grants, gifts, services, and
21 funds from available sources for use in adult education; ~~and~~

22 (8) adopt or develop and administer a standardized
23 assessment mechanism for assessing all adult education program
24 participants who need literacy instruction, adult basic education,
25 or secondary education leading to an adult high school diploma or
26 the equivalent;

27 (9) collaborate with the Texas Workforce Commission to

1 improve the coordination and implementation of adult education and
2 literacy services in this state; and

3 (10) monitor and evaluate educational and employment
4 outcomes of students who participate in the agency's adult
5 education and literacy programs.

6 (a-1) The agency shall use existing funds to contract with
7 the Texas Workforce Commission for the development of a
8 demand-driven workplace literacy and basic skills curriculum that
9 complies with the requirements adopted under Section 301.152, Labor
10 Code. This subsection expires September 1, 2005.

11 SECTION 5.04. Subchapter C, Chapter 2308, Government Code,
12 is amended by adding Section 2308.1016 to read as follows:

13 Sec. 2308.1016. DUTY TO FACILITATE DELIVERY OF INTEGRATED
14 ADULT EDUCATION AND LITERACY SERVICES. (a) In addition to any
15 duty imposed under this subchapter, to facilitate the efficient
16 delivery of integrated adult education and literacy services in
17 this state, the council shall:

18 (1) evaluate adult education and literacy programs
19 administered by the Texas Education Agency and the Texas Workforce
20 Commission to identify:

21 (A) any duplication of planning by those agencies
22 at the state and local level;

23 (B) any lack of adequate client information
24 sharing between those agencies; and

25 (C) any other problems that adversely affect the
26 delivery of those programs by the agencies;

27 (2) develop and implement immediate and long-range

1 strategies to address problems identified by the council under
2 Subdivision (1); and

3 (3) develop a system to monitor and evaluate the wage
4 and employment outcomes of students who participate in the adult
5 education and literacy programs administered by the Texas Education
6 Agency, including students referred to the programs by the Texas
7 Workforce Commission or local workforce development boards, to
8 ensure the effectiveness of the programs in improving the
9 employment-related outcomes of the students.

10 (b) The council shall include in the council's annual report
11 to the governor and to the legislature:

12 (1) a list of specific problems identified by the
13 council under Subsection (a) to be addressed by the council in the
14 following year; and

15 (2) the results of any measures taken by the council to
16 address problems identified by the council under Subsection (a).

17 (c) The long-range strategies developed by the council
18 under Subsection (a) must:

19 (1) identify the agency responsible for implementing
20 each strategy; and

21 (2) include a schedule for the implementation of each
22 strategy.

23 SECTION 5.05. Section 2308.104, Government Code, is amended
24 by adding Subsection (i) to read as follows:

25 (i) The council shall include in the strategic plan the
26 long-range strategies developed by the council under Section
27 2308.1016 to facilitate the efficient delivery of integrated adult

1 education and literacy services in this state.

2 SECTION 5.06. The Texas Workforce Commission shall
3 implement Section 301.151, Labor Code, as added by this article, as
4 soon as possible after the effective date of this Act.

5 SECTION 5.07. The Texas Workforce Commission shall
6 implement Section 301.152, Labor Code, as added by this article,
7 not later than September 1, 2005.

8 SECTION 5.08. The Texas Education Agency shall implement
9 Subsection (a), Section 29.252, Education Code, as amended by this
10 article, and Subsection (a-1), Section 29.252, Education Code, as
11 added by this article, as soon as possible after the effective date
12 of this Act.

13 SECTION 5.09. The Council on Workforce and Economic
14 Competitiveness shall implement Section 2308.1016 and Subsection
15 (i), Section 2308.104, Government Code, as added by this article,
16 not later than December 31, 2003.

17 ARTICLE 6. PARTIAL TRANSFERS OF UNEMPLOYMENT

18 COMPENSATION EXPERIENCE RATES

19 SECTION 6.01. Section 204.084, Labor Code, is amended by
20 amending Subsection (c) and adding Subsection (d) to read as
21 follows:

22 (c) Except as provided by Subsection (d), the ~~[The]~~
23 commission shall approve an application if:

24 (1) immediately after the acquisition the successor
25 employing unit continues operation of substantially the same part
26 of the organization, trade, or business acquired;

27 (2) the predecessor employer waives in writing all

1 rights to an experience rating computed on the compensation
2 experience attributable to the part of the organization, trade, or
3 business acquired by the successor employing unit, unless the
4 acquisition results from the death of the predecessor employer;

5 (3) a definitely identifiable and segregable part of
6 the predecessor employer's compensation experience is attributable
7 to the part of the organization, trade, or business acquired; ~~and~~

8 (4) for a successor employing unit that is not an
9 employer at the time of the acquisition, the successor employing
10 unit elects to become an employer on the date of the acquisition or
11 otherwise becomes an employer during the year in which the
12 acquisition occurs;

13 (5) the application was filed with the commission not
14 later than the first anniversary of the effective date of the
15 acquisition; and

16 (6) the applicants have shown that:

17 (A) the acquired part of the organization, trade,
18 or business is capable of operating independently and separately
19 from the predecessor employer; and

20 (B) the wages attributable to the acquired part
21 of the organization, trade, or business are solely attributable to
22 services provided on behalf of the acquired part of the
23 organization, trade, or business.

24 (d) The commission may deny a transfer of compensation
25 experience under this section if the commission determines based on
26 credible evidence that the acquisition was done primarily to
27 qualify for a reduced unemployment insurance tax rate by:

- 1 (1) circumventing the experience rating system; or
- 2 (2) manipulating the experience rating system by
- 3 minimizing the impact of chargebacks to the predecessor employer's
- 4 tax account.

5 SECTION 6.02. The changes in law made by this article to
6 Section 204.084, Labor Code, apply only to an acquisition of an
7 organization, trade, or business that occurs on or after the
8 effective date of this Act. An acquisition of an organization,
9 trade, or business that occurs before the effective date of this Act
10 is governed by the law in effect on the date the acquisition
11 occurred, and that law is continued in effect for that purpose.

12 ARTICLE 7. CAREER SCHOOLS AND COLLEGES

13 PART 1. SUBSTANTIVE CHANGES REGARDING CAREER SCHOOLS AND COLLEGES

14 SECTION 7.01. Subchapter A, Chapter 132, Education Code, is
15 amended by adding Section 132.0015 to read as follows:

16 Sec. 132.0015. REFERENCE TO PROPRIETARY SCHOOL. A
17 reference in this code or another law to a proprietary school means
18 a career school or college.

19 SECTION 7.02. Section 132.061, Education Code, is amended
20 to read as follows:

21 Sec. 132.061. REFUND POLICY. (a) Except as provided by
22 Subsection (g), as a condition for granting certification each
23 career [~~proprietary~~] school or college must maintain a cancellation
24 and settlement policy that must provide a full refund of all monies
25 paid by a student if:

- 26 (1) the student cancels the enrollment agreement or
- 27 contract within 72 hours (until midnight of the third day excluding

1 Saturdays, Sundays, and legal holidays) after the enrollment
2 contract is signed by the prospective student; or

3 (2) the enrollment of the student was procured as the
4 result of any misrepresentation in advertising, promotional
5 materials of the school or college, or representations by the owner
6 or representatives of the school or college.

7 (b) Except as provided by Subsection (g), as a condition for
8 granting certification each career [~~proprietary~~] school or college
9 must maintain a policy for the refund of the unused portion of
10 tuition, fees, and other charges in the event the student, after
11 expiration of the 72-hour cancellation privilege, fails to enter
12 the course, withdraws, or is discontinued therefrom at any time
13 prior to completion, and such policy must provide:

14 (1) refunds for resident courses will be based on the
15 period of enrollment computed on the basis of course time expressed
16 in clock hours;

17 (2) the effective date of the termination for refund
18 purposes in residence schools or colleges will be the earliest of
19 the following:

20 (A) the last date of attendance, if the student
21 is terminated by the school or college;

22 (B) the date of receipt of written notice from
23 the student; or

24 (C) 10 school days following the last date of
25 attendance;

26 (3) if tuition and fees are collected in advance of
27 entrance, and if, after expiration of the 72-hour cancellation

1 privilege, the student does not enter the residence school or
2 college, not more than \$100 shall be retained by the school or
3 college;

4 (4) for the student who enters a residence course of
5 not more than 12 months in length, terminates, or withdraws, the
6 school or college may retain \$100 of tuition and fees and the
7 minimum refund of the remaining tuition and fees will be:

8 (A) during the first week or one-tenth of the
9 course, whichever is less, 90 percent of the remaining tuition and
10 fees;

11 (B) after the first week or one-tenth of the
12 course, whichever is less, but within the first three weeks or
13 one-fifth of the course, whichever is less, 80 percent of the
14 remaining tuition and fees;

15 (C) after the first three weeks or one-fifth of
16 the course, whichever is less, but within the first quarter of the
17 course, 75 percent of the remaining tuition and fees;

18 (D) during the second quarter of the course, 50
19 percent of the remaining tuition and fees;

20 (E) during the third quarter of the course, 10
21 percent of the remaining tuition and fees; or

22 (F) during the last quarter of the course, the
23 student may be considered obligated for the full tuition and fees;

24 (5) for residence courses more than 12 months in
25 length, the refund shall be applied to each 12-month period paid, or
26 part thereof separately, and the student is entitled to a refund as
27 provided by Subdivision (4);

1 (6) refunds of items of extra expense to the student,
2 such as instructional supplies, books, student activities,
3 laboratory fees, service charges, rentals, deposits, and all other
4 such ancillary miscellaneous charges, where these items are
5 separately stated and shown in the data furnished the student
6 before enrollment, will be made in a reasonable manner acceptable
7 to the commission;

8 (7) refunds based on enrollment in residence schools
9 or colleges will be totally consummated within 60 days after the
10 effective date of termination;

11 (8) refunds for correspondence courses will be
12 computed on the basis of the number of lessons in the course;

13 (9) the effective date of the termination for refund
14 purposes in correspondence courses will be the earliest of the
15 following:

16 (A) the date of notification to the student if
17 the student is terminated;

18 (B) the date of receipt of written notice from
19 the student; or

20 (C) the end of the third calendar month following
21 the month in which the student's last lesson assignment was
22 received unless notification has been received from the student
23 that the student wishes to remain enrolled;

24 (10) if tuition and fees are collected before any
25 lessons have been completed, and if, after expiration of the
26 72-hour cancellation privilege, the student fails to begin the
27 course, not more than \$50 shall be retained by the school or

1 college;

2 (11) in cases of termination or withdrawal after the
3 student has begun the correspondence course, the school or college
4 may retain \$50 of tuition and fees, and the minimum refund policy
5 must provide that the student will be refunded the pro rata portion
6 of the remaining tuition, fees, and other charges that the number of
7 lessons completed and serviced by the school or college bears to the
8 total number of lessons in the course; and

9 (12) refunds based on enrollment in correspondence
10 schools or colleges will be totally consummated within 60 days
11 after the effective date of termination.

12 (c) In lieu of the refund policy herein set forth, for
13 programs of instruction not regularly offered to the public, the
14 commission may, for good cause shown, amend, modify, or substitute
15 the terms of a career school or college's [~~proprietary school's~~]
16 policy due to the specialized nature and objective of the school or
17 college's [~~school's~~] course of instruction.

18 (d) If a course of instruction is discontinued by the career
19 [~~proprietary~~] school or college and this prevents the student from
20 completing the course, all tuition and fees paid are then due and
21 refundable.

22 (e) If a refund is not made within the period required by
23 this section, the career [~~proprietary~~] school or college shall pay
24 a penalty. If the refund is made to a lending institution, the
25 penalty shall also be paid to that institution and applied against
26 the student's loan. The commission annually shall establish the
27 level of the penalty at a level sufficient to provide a deterrent to

1 the retention of student funds. The commission may exempt a school
2 or college from the payment of the penalty if the school or college
3 makes a good faith effort to refund the tuition, fees, and other
4 charges but is unable to locate the student. The school or college
5 shall provide to the commission on request documentation of the
6 effort to locate the student.

7 (f) A career [~~proprietary~~] school or college shall record a
8 grade of "incomplete" for a student who withdraws but is not
9 entitled to a refund under Subsection (b)(4)(F) if the student
10 requests the grade at the time the student withdraws and the student
11 withdraws for an appropriate reason unrelated to the student's
12 academic status. A student who receives a grade of incomplete may
13 re-enroll in the program during the 12-month period following the
14 date the student withdraws and complete those incomplete subjects
15 without payment of additional tuition.

16 (g) A program that is 40 hours or less of class time, or a
17 seminar or workshop, is exempt from the 72-hour rule provided by
18 Subsection (a). The career [~~proprietary~~] school or college shall
19 maintain a policy for the refund of the unused portion of tuition,
20 fees, and other charges in the event the student fails to enter the
21 course, withdraws from the course, or is discontinued from the
22 class at any time before completion of the course as provided by
23 this section. The policy must provide that:

24 (1) refunds are based on the period of enrollment
25 computed on the basis of course time expressed in clock hours;

26 (2) the effective date of the termination for refund
27 purposes is the earlier of:

1 (A) the last date of attendance; or

2 (B) the date the school or college receives
3 written notice from the student that the student is withdrawing
4 from the class; and

5 (3) the student will be refunded the pro rata portion
6 of tuition, fees, and other charges that the number of class hours
7 remaining in the course after the effective date of the termination
8 bears to the total number of class hours in the course.

9 (h) A closing career school or college shall make a full
10 refund to each student of the school or college who is owed a refund
11 under this section.

12 (i) Each officer, director, and owner of a career school or
13 college that closes is personally liable for the amount of any
14 refund owed to a student under Subsection (h).

15 SECTION 7.03. Chapter 132, Education Code, is amended by
16 adding Subchapter J to read as follows:

17 SUBCHAPTER J. CEASE AND DESIST ORDERS

18 Sec. 132.301. HEARING; NOTICE. (a) The commission may set
19 a hearing on whether to issue a cease and desist order against a
20 person under Section 132.303 if:

21 (1) the commission has reason to believe that the
22 person is operating a career school or college without a
23 certificate issued by the commission in violation of Section
24 132.151; and

25 (2) the person has not responded to more than one
26 written notice from the commission regarding the person's
27 noncompliance with Section 132.151.

1 (b) The commission shall serve on the person a statement of
2 charges and a notice of hearing, including a copy of the applicable
3 rules of the commission.

4 Sec. 132.302. HEARING. Except as agreed by the parties with
5 prior written approval of the commission, a hearing under this
6 subchapter must be held not earlier than the fifth day or later than
7 the 30th day after the date of service of the statement and notice
8 required under Section 132.301.

9 Sec. 132.303. CEASE AND DESIST ORDER. After a hearing held
10 under this subchapter, the commission may issue against the person
11 charged with operating a career school or college without a
12 certificate issued by the commission an order that requires that
13 the person immediately cease and desist from violating this
14 chapter.

15 Sec. 132.304. ENFORCEMENT; REFERRAL TO THE ATTORNEY
16 GENERAL. The commission may refer the matter to the consumer
17 protection division of the attorney general's office for
18 enforcement if the commission has reason to believe that a person
19 has violated or failed to respond to a cease and desist order issued
20 under this subchapter.

21 Sec. 132.305. EFFECT OF PRIOR PROCEEDINGS. The commission
22 may proceed under this chapter or any other applicable law without
23 regard to prior proceedings.

24 Sec. 132.306. RULES. The commission shall adopt rules as
25 necessary to implement this subchapter.

26 SECTION 7.04. Section 132.241, Education Code, is amended
27 by amending Subsections (a), (b), (d), and (e) and adding

1 Subsections (f) and (g) to read as follows:

2 (a) Except as provided by Subsection (d), at the time that
3 each career [~~proprietary~~] school or college pays its annual renewal
4 fee, in the years provided by Subsection (b), the commission shall
5 also collect a fee from the school or college for deposit to the
6 credit of the career [~~proprietary~~] school or college tuition
7 protection fund.

8 (b) If on January 1 of any year the amount in the fund is
9 less than \$400,000 [~~\$200,000~~], the commission shall collect a fee
10 during that year by applying a percentage to each career school or
11 college's [~~proprietary school's~~] annual renewal fee at a rate that
12 will bring the balance of the fund to \$500,000 [~~\$250,000~~].

13 (d) A career [~~proprietary~~] school or college is not required
14 to pay the fee for the tuition protection fund under Subsection (a)
15 if, at the time the school or college pays the annual renewal fee,
16 the bond provided by the school or college under Section 132.060 is
17 greater than the unearned tuition of the school or college.

18 (e) If at the end of a fiscal year the commission determines
19 that it has collected fees under this chapter in excess of the
20 amount necessary to defray the cost and expense of administering
21 this chapter, the commission may transfer any portion of the excess
22 amount to the tuition protection fund. The balance of the fund may
23 not exceed an amount greater than \$500,000 [~~\$250,000~~].

24 (f) From money in the tuition protection fund, the
25 commission shall attempt to provide a full refund to each student of
26 a closed career school or college of the amount of the refund owed
27 to the student under Section 132.061. The commission may provide a

1 partial refund to a student only if the commission determines that
2 the amount of money in the tuition protection fund is not sufficient
3 to provide a full refund to the student. The commission shall
4 consider the following factors in determining the amount of a
5 partial refund to be paid to a student:

6 (1) the amount of money in the fund;

7 (2) the cost and number of claims against the fund
8 resulting from closure of the school or college;

9 (3) the average cost of a claim paid from the fund in
10 the past; and

11 (4) the availability of other licensed career schools
12 or colleges at which the student may complete the student's
13 training.

14 (g) Notwithstanding Subsections (b) and (e), in the state
15 fiscal year ending August 31, 2004:

16 (1) the commission shall collect a fee under
17 Subsection (b) only if on January 1 of that year the amount in the
18 fund is less than \$300,000; and

19 (2) the balance of the tuition protection fund may not
20 exceed \$375,000. This subsection expires September 1, 2005.

21 SECTION 7.05. Section 132.242, Education Code, is amended
22 to read as follows:

23 Sec. 132.242. CLOSED SCHOOL OR COLLEGE. (a) If a career
24 [~~proprietary~~] school or college closes, the commission shall
25 attempt to arrange for students of the closed school or college to
26 attend another career [~~proprietary~~] school or college.

27 (b) The expense incurred by a career [~~proprietary~~] school or

1 college in providing a teachout that is directly related to
2 educating a student placed in the school or college under this
3 section, including the applicable tuition for the period for which
4 the student has paid tuition, shall be paid from the career
5 [~~proprietary~~] school or college tuition protection fund.

6 (c) If the student cannot be placed in another career
7 [~~proprietary~~] school or college, the student's tuition and fees
8 shall be refunded under Section 132.061(d).

9 (d) If a student does not accept a place that is available
10 and reasonable in another career [~~proprietary~~] school or college,
11 the student's tuition and fees shall be refunded under the refund
12 policy maintained by the closing career [~~proprietary~~] school or
13 college under Section 132.061(b).

14 (e) If the amount of the closed career school or college's
15 [~~proprietary school's~~] bond under Section 132.060 is less than the
16 amount required for student refunds under Subsections (c) and (d),
17 the refunds shall be paid from the career [~~proprietary~~] school or
18 college tuition protection fund in an amount not to exceed \$150,000
19 [~~\$50,000~~].

20 (f) If another career [~~proprietary~~] school or college
21 assumes responsibility for the closed career school or college's
22 [~~proprietary school's~~] students with no significant changes in the
23 quality of training, the student is not entitled to a refund under
24 Subsection (c) or (d).

25 (g) Attorney's fees, court costs, or damages may not be paid
26 from the career [~~proprietary~~] school or college tuition protection
27 fund.

PART 2. CONFORMING AMENDMENTS REGARDING
CAREER SCHOOLS AND COLLEGES

SECTION 7.06. Subsection (b), Section 52.32, Education Code, is amended to read as follows:

(b) If a loan applicant is enrolled at a career ~~[proprietary]~~ school or college in a degree program that is approved by the board, the applicant is not required to provide evidence that he is unable to obtain a guaranteed student loan from a commercial lender under Subsection (a)(2) of this section.

SECTION 7.07. Subdivision (5), Section 53.02, Education Code, is amended to read as follows:

(5) "Institution of higher education" means (i) any institution of higher education as defined by Subdivision (8) of Section 61.003 of this code, or (ii) a degree-granting college or university corporation accredited by the Texas Education Agency or by a recognized accrediting agency, as defined by Subdivision (13) of Section 61.003 of this code, or (iii) a postsecondary career ~~[proprietary]~~ school or college accredited by the Association of Independent Colleges and Schools, the National Association of Trade and Technical Schools, or the National Accrediting Commission of Cosmetology Arts and Sciences.

SECTION 7.08. Section 54.6001, Education Code, is amended to read as follows:

Sec. 54.6001. PUBLIC PURPOSE. An educated population being necessary to the social development and economic health of this state, the legislature finds and declares it to be an urgent public necessity to assist young Texans in obtaining a higher education.

1 Because the state's population is rapidly growing and is diverse,
2 the state is required to use all of the higher education facilities
3 and resources within the state, both public and private, to provide
4 a wide variety of educational environments and instructional
5 options and to preserve the partnership between the state and
6 private or independent institutions of higher education and between
7 the state and career [~~proprietary~~] schools and colleges, as defined
8 by Section 132.001, that offer a two-year associate degree as
9 approved by the Texas Higher Education Coordinating Board.
10 Therefore, the prepaid higher education tuition program is
11 established to help Texas students attend the institution that best
12 meets their individual needs.

13 SECTION 7.09. Subdivision (9), Section 54.601, Education
14 Code, is amended to read as follows:

15 (9) "Career school or college" [~~"Proprietary school"~~]
16 means a career [~~proprietary~~] school or college, as defined by
17 Section 132.001, that offers a two-year associate degree as
18 approved by the Texas Higher Education Coordinating Board.

19 SECTION 7.10. Subsection (a), Section 54.605, Education
20 Code, is amended to read as follows:

21 (a) A prepaid tuition contract remains in effect after the
22 program is terminated if, when the program is terminated, the
23 beneficiary:

24 (1) has been accepted by or is enrolled in an
25 institution of higher education, a private or independent
26 institution of higher education, or a career [~~proprietary~~] school
27 or college; or

1 (2) is projected to graduate from high school not
2 later than the third anniversary of the date the program is
3 terminated.

4 SECTION 7.11. Subsection (b), Section 54.618, Education
5 Code, is amended to read as follows:

6 (b) The board may:

7 (1) adopt an official seal;

8 (2) adopt rules to implement this subchapter;

9 (3) sue and be sued;

10 (4) enter into contracts and other necessary
11 instruments;

12 (5) enter into agreements or other transactions with
13 the United States, state agencies, including institutions of higher
14 education, private or independent institutions of higher
15 education, career [~~proprietary~~] schools and colleges, and local
16 governments;

17 (6) appear in its own behalf before governmental
18 agencies;

19 (7) contract for necessary goods and services and
20 engage the services of private consultants, actuaries, trustees,
21 records administrators, managers, legal counsel, and auditors for
22 administrative or technical assistance;

23 (8) solicit and accept gifts, grants, loans, and other
24 aid from any source or participate in any other way in any
25 government program to carry out this subchapter;

26 (9) impose administrative fees;

27 (10) contract with a person to market the program;

1 (11) purchase liability insurance covering the board
2 and employees and agents of the board; and

3 (12) establish other policies, procedures, and
4 eligibility criteria to implement this subchapter.

5 SECTION 7.12. Subsection (h), Section 54.619, Education
6 Code, is amended to read as follows:

7 (h) Notwithstanding other provisions of this subchapter,
8 any contract benefits purchased under this subchapter may be
9 applied to the payment of tuition and required fees at a career
10 [~~proprietary~~] school or college as if the [~~proprietary~~] school or
11 college were an institution of higher education or private or
12 independent institution of higher education. On the purchaser's
13 request, the board shall apply, in accordance with Section 54.628,
14 any existing amount of prepaid tuition contract benefits to the
15 payment of tuition and required fees at a career [~~proprietary~~]
16 school or college. The board is not responsible for the payment of
17 tuition and required fees at the career [~~proprietary~~] school or
18 college in excess of that amount. The board may adopt rules as
19 necessary to implement this subsection.

20 SECTION 7.13. The heading of Chapter 132, Education Code,
21 is amended to read as follows:

22 CHAPTER 132. CAREER [~~PROPRIETARY~~] SCHOOLS AND COLLEGES

23 SECTION 7.14. Subdivisions (1) through (8), (10), and (12),
24 Section 132.001, Education Code, are amended to read as follows:

25 (1) "Career school or college" [~~"Proprietary school"~~]
26 means any business enterprise operated for a profit, or on a
27 nonprofit basis, that maintains a place of business within this

1 state, or solicits business within this state, and that is not
2 specifically exempted by this chapter and:

3 (A) that offers or maintains a course or courses
4 of instruction or study; or

5 (B) at which place of business such a course or
6 courses of instruction or study is available through classroom
7 instruction or by correspondence, or both, to a person for the
8 purpose of training or preparing the person for a field of endeavor
9 in a business, trade, technical, or industrial occupation, or for
10 avocational or personal improvement.

11 (2) "Owner" of a career school or college [~~proprietary~~
12 ~~school~~] means:

13 (A) in the case of a career school or college
14 owned by an individual, that individual;

15 (B) in the case of a career school or college
16 owned by a partnership, all full, silent, and limited partners;

17 (C) in the case of a career school or college
18 owned by a corporation, the corporation, its directors, officers,
19 and each shareholder owning shares of issued and outstanding stock
20 aggregating at least 10 percent of the total of the issued and
21 outstanding shares;

22 (D) in the case of a career school or college in
23 which the ownership interest is held in trust, the beneficiary of
24 that trust; or

25 (E) in the case of a career school or college
26 owned by another legal entity, a person who owns at least 10 percent
27 ownership interest in the entity.

1 (3) "School employee" means any person, other than an
2 owner, who directly or indirectly receives compensation from a
3 career [~~proprietary~~] school or college for services rendered.

4 (4) "Representative" means a person employed by a
5 career [~~proprietary~~] school or college, whether the school or
6 college is located within or without this state, to act as an agent,
7 solicitor, broker, or independent contractor to directly procure
8 students for the school or college by solicitation within or
9 without this state at any place.

10 (5) "Agency administrator" means the agency
11 administrator of the Texas Workforce Commission or a person,
12 knowledgeable in the administration of regulating career
13 [~~proprietary~~] schools and colleges, designated by the agency
14 administrator to administer this chapter.

15 (6) "Notice to the career school or college"
16 [~~proprietary school~~] means written correspondence sent to the
17 address of record for legal service contained in the application
18 for a certificate of approval. "Date of Notice" means the date the
19 notice is mailed by the commission.

20 (7) "Support" or "supported" means the primary source
21 and means by which a career [~~proprietary~~] school or college derives
22 revenue to perpetuate its operation.

23 (8) "Person" means any individual, firm, partnership,
24 association, corporation, or other private entity or combination
25 [~~thereof~~].

26 (10) "Small career school or college" [~~proprietary~~
27 ~~school~~] means a career [~~proprietary~~] school or college that does

1 not receive any payment from federal funds under 20 U.S.C. Section
2 1070 et seq. and its subsequent amendments or a prepaid federal or
3 state source as compensation in whole or in part for any student
4 tuition and fees or other charges and either:

5 (A) has an annual gross income from student
6 tuition and fees that is less than or equal to \$100,000 for programs
7 regulated by the agency;

8 (B) exclusively offers programs to assist
9 students to prepare for an undergraduate or graduate course of
10 study at a college or university; or

11 (C) exclusively offers programs to assist
12 students, who have obtained, or who are in the process of obtaining,
13 degrees after completing an undergraduate or graduate course of
14 study at a college or university, to prepare for an examination.

15 (12) "Division" means the division of education of
16 [~~in~~] the commission.

17 SECTION 7.15. Subsection (a), Section 132.002, Education
18 Code, is amended to read as follows:

19 (a) The following schools or educational institutions are
20 specifically exempt from this chapter and are not within the
21 definition of "career school or college" [~~"proprietary school"~~]:

22 (1) a school or educational institution supported by
23 taxation from either a local or state source;

24 (2) nonprofit schools owned, controlled, operated,
25 and conducted by bona fide religious, denominational,
26 eleemosynary, or similar public institutions exempt from property
27 taxation under the laws of this state, but such schools may choose

1 to apply for a certificate of approval hereunder, and upon approval
2 and issuance, are subject to this chapter as determined by the
3 commission;

4 (3) a school or training program that offers
5 instruction of purely avocational or recreational subjects as
6 determined by the commission;

7 (4) a course or courses of instruction or study
8 sponsored by an employer for the training and preparation of its own
9 employees, and for which no tuition fee is charged to the student;

10 (5) a course or courses of study or instruction
11 sponsored by a recognized trade, business, or professional
12 organization for the instruction of the members of the organization
13 with a closed membership;

14 (6) private colleges or universities that award a
15 recognized baccalaureate, or higher degree, and that maintain and
16 operate educational programs for which a majority of the credits
17 given are transferable to a college, junior college, or university
18 supported entirely or partly by taxation from either a local or
19 state source;

20 (7) a school or course that is otherwise regulated and
21 approved under and pursuant to any other law or rulemaking process
22 of this state or approved for continuing education credit by an
23 organization that accredits courses for the maintenance of a
24 license, except as provided by Subsection (c);

25 (8) aviation schools or instructors approved by and
26 under the supervision of the Federal Aviation Administration;

27 (9) a school that offers intensive review of a

1 student's acquired education, training, or experience to prepare
2 the student for an examination, other than a high school
3 equivalency examination, that the student by law may not take
4 unless the student has completed or substantially completed a
5 particular degree program, or that the student is required to take
6 as a precondition for enrollment in or admission to a particular
7 degree program;

8 (10) a private school offering primary or secondary
9 education, which may include a kindergarten or prekindergarten
10 program, and that satisfies the compulsory attendance requirements
11 of Section 25.085 pursuant to Section 25.086(a)(1);

12 (11) a course or courses of instruction by bona fide
13 electrical trade associations for the purpose of preparing students
14 for electrical tests required for licensing and for the purpose of
15 providing continuing education to students for the renewal of
16 electrical licenses;

17 (12) a nonprofit arts organization that has as its
18 primary purpose the provision of instruction in the dramatic arts
19 and the communications media to persons younger than 19 years of
20 age;

21 (13) a course or training program conducted by a
22 nonprofit association of air conditioning and refrigeration
23 contractors approved by the Air Conditioning and Refrigeration
24 Contractors Advisory Board to provide instruction for technical,
25 business, or license examination preparation programs relating to
26 air conditioning and refrigeration contracting, as that term is
27 defined by Chapter 1302, Occupations Code [~~the Air Conditioning and~~

1 ~~Refrigeration Contractor License Law (Article 8861, Vernon's Texas~~
2 ~~Civil Statutes)]~~;

3 (14) a course of instruction by a plumbing trade
4 association to prepare students for a plumbing test or program
5 required for licensing, certification, or endorsement or to provide
6 continuing education approved by the Texas State Board of Plumbing
7 Examiners; and

8 (15) a course of instruction in the use of
9 technological hardware or software if the course is offered to a
10 purchaser of the hardware or software or to the purchaser's
11 employee by a person who manufactures and sells, or develops and
12 sells, the hardware or software, and if the seller is not primarily
13 in the business of providing courses of instruction in the use of
14 the hardware or software, as determined by the commission.

15 SECTION 7.16. Subsections (a) and (b), Section 132.021,
16 Education Code, are amended to read as follows:

17 (a) The commission shall exercise jurisdiction and control
18 of the system of career [~~proprietary~~] schools and colleges, and the
19 commission shall carry out supervision of the provisions of this
20 chapter, and enforce minimum standards for approval of career
21 [~~proprietary~~] schools and colleges under the operating regulations
22 and policies hereinafter set forth and as may be adopted pursuant to
23 this chapter.

24 (b) The commission shall prepare a comparison of the cost to
25 a student of courses of instruction or training programs at career
26 [~~proprietary~~] schools and colleges to the cost to a student of
27 similar courses or programs at schools that are exempt from this

1 chapter under Section 132.002.

2 SECTION 7.17. Section 132.022, Education Code, is amended
3 to read as follows:

4 Sec. 132.022. DUTIES OF COMMISSION. The commission shall
5 carry out the policies of this chapter and enforce the rules adopted
6 under this chapter. The commission shall also certify the names of
7 those career [~~proprietary~~] schools and colleges meeting the
8 requirements for a certificate of approval.

9 SECTION 7.18. Section 132.023, Education Code, is amended
10 to read as follows:

11 Sec. 132.023. MEMORANDUM OF UNDERSTANDING FOR REGULATION OF
12 CAREER [~~PROPRIETARY~~] SCHOOLS AND COLLEGES. (a) The commission
13 shall develop, in consultation with the Texas Guaranteed Student
14 Loan Corporation and each state agency that regulates career
15 [~~proprietary~~] schools and colleges in this state, a comprehensive
16 strategy to reduce default rates at the regulated career
17 [~~proprietary~~] schools and colleges and to improve the overall
18 quality of the programs operated by these schools and colleges.

19 (b) The commission shall execute a memorandum of
20 understanding outlining the strategy with the corporation and each
21 state agency regulating career [~~proprietary~~] schools and colleges
22 and shall adopt rules to carry out the commission's [~~its~~] duties
23 under this section. The Texas Guaranteed Student Loan Corporation
24 shall adopt the memorandum of understanding as procedures of the
25 corporation, and each agency by rule shall adopt the memorandum of
26 understanding.

27 (c) The memorandum of understanding shall:

1 (1) require the development and monitoring of
2 indicators that identify career [~~proprietary~~] schools and colleges
3 that have excessive loan default rates, poor program performance,
4 or both;

5 (2) require the sharing of specific information
6 relating to the indicators between the commission and the Texas
7 Guaranteed Student Loan Corporation or other agency; and

8 (3) require the application of specific sanctions by
9 the commission or by the Texas Guaranteed Student Loan Corporation
10 or other agency, as appropriate, to lower the default rates,
11 improve program performance, or both.

12 (d) If the commission enters a memorandum of understanding
13 with the Texas Guaranteed Student Loan Corporation related to the
14 regulation of career [~~proprietary~~] schools and colleges, the
15 commission may require each career [~~proprietary~~] school or college
16 governed by this chapter to provide information to the commission
17 that is necessary for the purposes of the memorandum of
18 understanding.

19 SECTION 7.19. Section 132.051, Education Code, is amended
20 to read as follows:

21 Sec. 132.051. CERTIFICATE OF APPROVAL. (a) A career
22 [~~proprietary~~] school or college may not maintain, advertise,
23 solicit for, or conduct any course of instruction in this state
24 before the later of:

25 (1) the 30th day after the date the school or college
26 applies for a certificate of approval under this chapter; or

27 (2) the date the school or college receives a

1 certificate of approval from the commission.

2 (b) Any contract entered into with any person for a course
3 of instruction by or on behalf of any person operating any career
4 [~~proprietary~~] school or college to which a certificate of approval
5 has not been issued pursuant to this chapter is unenforceable in any
6 action brought thereon.

7 SECTION 7.20. Section 132.052, Education Code, is amended
8 to read as follows:

9 Sec. 132.052. APPLICATION FOR CERTIFICATE OF APPROVAL.
10 Every career [~~proprietary~~] school or college desiring to operate in
11 this state or do business in this state shall make written
12 application to the commission for a certificate of approval. Such
13 application shall be verified, be in such form as may be prescribed
14 by the commission, and shall furnish the commission such
15 information as the commission may require.

16 SECTION 7.21. Section 132.053, Education Code, is amended
17 to read as follows:

18 Sec. 132.053. STATUTORY WAIVER AUTHORITY. (a) The
19 commission may establish rules that waive, alter, suspend, or
20 replace any of the following provisions governing small career
21 [~~proprietary~~] schools and colleges:

22 (1) the fee schedule authorized under Section 132.201,
23 provided that fees under a fee schedule established by rule may not
24 be less than the reasonable administrative cost for regulation or
25 more than the amount that a small career [~~proprietary~~] school or
26 college would otherwise pay if it were not classified as a small
27 career [~~proprietary~~] school or college;

1 (2) participation in the career [~~proprietary~~] school
2 or college tuition protection fund required by Section 132.241;

3 (3) the refund policy provisions of Section 132.061;

4 (4) the bonding requirements of Section 132.060;

5 (5) the examination of a school or college for
6 compliance under Section 132.056(f);

7 (6) the reporting requirements of Section 132.055(o);
8 and

9 (7) the term for which a certificate of approval is
10 issued under Section 132.056(b), provided that a rule adopted under
11 this section may not provide for a term that exceeds three years or
12 is less than one year.

13 (b) A rule proposed under this section may be adopted only
14 if it will reduce the regulatory burden for small career
15 [~~proprietary~~] schools and colleges and will adequately safeguard
16 the interests of the students of small career [~~proprietary~~] schools
17 and colleges to receive either the education for which they have
18 contracted or an appropriate refund.

19 SECTION 7.22. Section 132.054, Education Code, is amended
20 to read as follows:

21 Sec. 132.054. SMALL SCHOOL OR COLLEGE EXEMPTION. The
22 commission may exempt small career [~~proprietary~~] schools and
23 colleges from any requirement of this chapter to reduce the cost to
24 small schools and colleges of receiving a certificate of approval.

25 SECTION 7.23. Section 132.055, Education Code, is amended
26 to read as follows:

27 Sec. 132.055. CRITERIA. The commission may approve the

1 application of such career [~~proprietary~~] school or college when the
2 school or college is found, upon investigation at the premises of
3 the school or college, to have met the following criteria:

4 (a) The courses, curriculum, and instruction are of such
5 quality, content, and length as may reasonably and adequately
6 achieve the stated objective for which the courses, curriculum, or
7 instruction are offered. Before a school or college conducts a
8 course of instruction in court reporting, the school or college
9 must produce evidence that the school or college has obtained
10 approval for the curriculum from the Court Reporters Certification
11 Board.

12 (b) There is in the school or college adequate space,
13 equipment, instructional material, and instructor personnel to
14 provide training of good quality.

15 (c) Educational and experience qualifications of directors,
16 administrators, and instructors are adequate.

17 (d) The school or college maintains a written record of the
18 previous education and training of the applicant student and
19 clearly indicates that appropriate credit has been given by the
20 school or college for previous education and training, with the new
21 training period shortened where warranted through use of
22 appropriate skills or achievement tests and the student so
23 notified.

24 (e) A copy of the course outline; schedule of tuition, fees,
25 refund policy, and other charges; regulations pertaining to
26 absence, grading policy, and rules of operation and conduct;
27 regulations pertaining to incomplete grades; the name, mailing

1 address, and telephone number of the commission for the purpose of
2 directing complaints to the agency; the current rates of job
3 placement and employment of students issued a certificate of
4 completion; and notification of the availability of the cost
5 comparison information prepared under Section 132.021(b) through
6 the commission will be furnished the student prior to enrollment.

7 (f) Except as provided by Section 132.062, on completion of
8 training, the student is given a certificate by the school or
9 college indicating the course and that training was satisfactorily
10 completed.

11 (g) Adequate records as prescribed by the commission are
12 kept to show attendance and progress or grades, and satisfactory
13 standards relating to attendance, progress, and conduct are
14 enforced.

15 (h) The school or college complies with all local, city,
16 county, municipal, state, and federal regulations, such as fire,
17 building, and sanitation codes. The commission may require such
18 evidence of compliance as is deemed necessary.

19 (i) The school or college is financially sound and capable
20 of fulfilling its commitments for training.

21 (j) The school or college's [~~school's~~] administrators,
22 directors, owners, and instructors are of good reputation and
23 character.

24 (k) The school or college has, maintains, and publishes in
25 its catalogue and enrollment contract the proper policy for the
26 refund of the unused portion of tuition, fees, and other charges in
27 the event the student enrolled by the school or college fails to

1 take the course or withdraws or is discontinued therefrom at any
2 time prior to completion.

3 (l) The school or college does not utilize erroneous or
4 misleading advertising, either by actual statement, omission, or
5 intimation as determined by the commission.

6 (m) Such additional criteria as may be required by the
7 commission.

8 (n) The school or college does not use a name like or similar
9 to an existing tax supported school or college in the same area.

10 (o) The school or college furnishes to the commission the
11 current rates of students who receive a certificate of completion
12 and of job placement and employment of students issued a
13 certificate of completion.

14 (p) The school or college furnishes to the commission for
15 approval or disapproval student admission requirements for each
16 course or program offered by the school or college.

17 (q) The school or college furnishes to the commission for
18 approval or disapproval the course hour lengths and curriculum
19 content for each course offered by the school or college.

20 (r) The school or college does not owe a penalty under
21 Section 132.152, 132.155, or 132.157.

22 SECTION 7.24. Section 132.056, Education Code, is amended
23 to read as follows:

24 Sec. 132.056. ISSUANCE OF CERTIFICATE OF APPROVAL; RENEWAL.

25 (a) The commission, upon review of an application for a
26 certificate of approval duly submitted in accordance with Section
27 132.052 and meeting the requirements of Section 132.055, shall

1 issue a certificate of approval to the applicant career
2 [~~proprietary~~] school or college. The certificate of approval shall
3 be in a form prescribed by the commission and shall state in a clear
4 and conspicuous manner at least the following information:

5 (1) date of issuance, effective date, and term of
6 approval;

7 (2) correct name and address of the school or college;

8 (3) authority for approval and conditions of approval,
9 if any, referring specifically to the approved catalogue or
10 bulletin published by the school or college;

11 (4) signature of the agency administrator; and

12 (5) any other fair and reasonable representations that
13 are consistent with this chapter and deemed necessary by the
14 commission.

15 (b) The term for which a certificate of approval shall be
16 issued may not exceed one year.

17 (c) The certificate of approval shall be issued to the owner
18 of the applicant career [~~proprietary~~] school or college and is
19 nontransferable. In the event of a change in ownership of the
20 school or college, a new owner must, at least 30 days prior to the
21 change in ownership, apply for a new certificate of approval.

22 (d) At least 30 days prior to expiration of a certificate of
23 approval, the career [~~proprietary~~] school or college shall forward
24 to the commission an application for renewal. The commission shall
25 reexamine the premises of the school or college as frequently as the
26 commission considers necessary and renew, revoke, or deny renewal
27 of the school or college's [~~school's~~] certificate of approval. If a

1 school or college fails to file a complete application for renewal
2 at least 30 days before the expiration date of the certificate of
3 approval, the school or college, as a condition of renewal, must
4 pay, in addition to the annual renewal fee, a late renewal fee in an
5 amount established by commission rule of at least \$100.

6 (e) A career [~~proprietary~~] school or college not yet in
7 operation when its application for certificate of approval is filed
8 may not begin operation until receipt of certificate of approval.

9 (f) The commission shall visit a career [~~proprietary~~]
10 school or college to reexamine the school or college for compliance
11 with the criteria provided by Section 132.055 not later than three
12 months after the date the [~~a~~] school or college begins operation or
13 after a change in ownership of the [~~a~~] school or college.

14 SECTION 7.25. Section 132.058, Education Code, is amended
15 to read as follows:

16 Sec. 132.058. REVOCATION OF CERTIFICATE OF APPROVAL.

17 (a) The commission may revoke an issued certificate of approval or
18 place reasonable conditions upon the continued approval
19 represented by the certificate. Prior to revocation or imposition
20 of conditions upon a certificate of approval, the commission shall
21 notify the holder of the certificate, in writing, of the impending
22 action and set forth the grounds for the action. The commission may
23 reexamine a career [~~proprietary~~] school or college two or more
24 times during each year in which a notice relating to the school or
25 college has been issued or conditions have been imposed on the
26 school or college under this subsection.

27 (b) A certificate of approval may be revoked or made

1 conditional if the commission has reasonable cause to believe that
2 the career [~~proprietary~~] school or college is guilty of a violation
3 of this chapter or of any rules adopted under this chapter.

4 SECTION 7.26. Subsections (a), (b), and (d), Section
5 132.059, Education Code, are amended to read as follows:

6 (a) All representatives employed by a career [~~proprietary~~]
7 school or college shall register with the commission. Application
8 for registration may be made at any time and shall be based on
9 information submitted in accordance with the provisions of Section
10 132.052.

11 (b) Registration of a representative is effective upon
12 receipt of notice from the commission and remains in effect for a
13 period not in excess of 12 calendar months. Renewal of
14 representative registration shall be in accordance with the renewal
15 application form forwarded to the career [~~proprietary~~] school or
16 college by the commission.

17 (d) Career [~~Proprietary~~] schools and colleges domiciled or
18 having their principal place of business outside of this state that
19 engage representatives to canvass, solicit, or contract with any
20 person within this state[7] are subject to the requirements for
21 registration of representatives.

22 SECTION 7.27. Section 132.060, Education Code, is amended
23 to read as follows:

24 Sec. 132.060. BOND REQUIREMENTS. (a) Before a certificate
25 of approval is issued under this chapter, a bond shall be provided
26 by the career [~~proprietary~~] school or college for the period during
27 which the certificate of approval is issued, and the obligation of

1 the bond shall be that neither this chapter nor any rule adopted
2 pursuant thereto shall be violated by the school or college or any
3 of its officers, agents, or employees. The bond shall be in the
4 penal sum of \$5,000 or a multiple of \$5,000 that is not greater than
5 \$35,000 for a certificate of approval issued for a period that
6 begins in the fiscal year ending August 31, 2002, and \$50,000 for a
7 certificate of approval issued for a period that begins on or after
8 September 1, 2002. The commission shall determine the amount based
9 on the evidence the school or college submits of its projected
10 maximum total unearned tuition during the period of the certificate
11 of approval. The bond shall be a corporate surety bond issued by a
12 company authorized to do business in this state, conditioned that
13 the parties thereto shall pay all damages or expenses that the state
14 or any governmental subdivision thereof or any student or potential
15 student may sustain resulting from a violation. The bond shall be
16 to the state to be used only for payment of a tuition refund due to a
17 student or potential student. The bond shall be filed with the
18 commission and shall be in such form as shall be approved by the
19 commission.

20 (b) In lieu of the corporate surety bond required in
21 Subsection (a), the career [~~proprietary~~] school or college may
22 provide any other similar certificate or evidence of indebtedness
23 as may be acceptable to the commission, provided that the
24 certificate or evidence of indebtedness meets all the requirements
25 applicable to the corporate surety bond.

26 (c) Career [~~Proprietary~~] schools and colleges domiciled or
27 having their principal place of business outside of this state that

1 engage representatives to canvass, solicit, or contract with any
2 person within this state are subject to the bond requirements of
3 Subsection (a).

4 (d) The commission, for good cause shown, may waive and
5 suspend the requirements set forth in Subsections (a) and (b) with
6 respect to career [~~proprietary~~] schools and colleges operating
7 wholly or in part under a federal grant where no tuition fee is
8 charged to the student.

9 SECTION 7.28. Section 132.062, Education Code, is amended
10 to read as follows:

11 Sec. 132.062. WITHHOLDING RECORDS. A career [~~proprietary~~]
12 school or college may withhold a student's transcript or
13 certificate of completion of training until the student has
14 fulfilled the student's financial obligation to the school or
15 college.

16 SECTION 7.29. Section 132.063, Education Code, is amended
17 to read as follows:

18 Sec. 132.063. APPROVED DEGREES. A career [~~proprietary~~]
19 school or college may offer a degree approved by the Texas Higher
20 Education Coordinating Board.

21 SECTION 7.30. Section 132.064, Education Code, is amended
22 to read as follows:

23 Sec. 132.064. NONQUALIFICATION AS SMALL CAREER
24 [~~PROPRIETARY~~] SCHOOL AND COLLEGE. (a) A career [~~proprietary~~]
25 school or college operating as a small career [~~proprietary~~] school
26 or college but that has an annual gross income from tuition and fees
27 that exceeds \$100,000 (other than a test preparation school

1 described by Section 132.001(10)(B) or (C)) that intends to receive
2 a payment from federal funds under 20 U.S.C. Section 1070 et seq. or
3 intends to receive prepayment of tuition, fees, or other charges
4 from federal or state funds shall send written notice to the
5 commission. The notice must be sent not later than the following
6 date, as applicable:

7 (1) the 60th day after the date on which annual gross
8 income is determined to exceed the maximum;

9 (2) the day before receiving a payment of federal
10 funds under 20 U.S.C. Section 1070 et seq.; or

11 (3) the day before enrolling a student who will prepay
12 tuition, a fee, or another charge in whole or in part from federal
13 or state funds.

14 (b) A career [~~proprietary~~] school or college that no longer
15 qualifies as a small career [~~proprietary~~] school or college shall
16 apply for an initial certificate of approval as a career
17 [~~proprietary~~] school or college within 30 days after the date the
18 school has notified the commission that it no longer qualifies as a
19 small career [~~proprietary~~] school or college. The commission may
20 apply or prorate any fees paid by the school or college as a small
21 career [~~proprietary~~] school or college.

22 (c) A career [~~proprietary~~] school or college that no longer
23 qualifies as a small career [~~proprietary~~] school or college shall
24 submit to the commission an amount of money equal to the difference
25 between the fee for the small career [~~proprietary~~] school or
26 college certificate of approval submitted by the school or college
27 and the fee that the school or college would be required to submit

1 after its qualifications as a small career [~~proprietary~~] school or
2 college cease.

3 (d) The authority of a career [~~proprietary~~] school or
4 college to operate under a small career [~~proprietary~~] school or
5 college certificate of approval terminates on the final
6 determination of issuance or denial of an initial certificate of
7 approval. If a school or college fails to file a complete
8 application within the period required by Subsection (b), the
9 school or college, as a condition of issuance, must pay a late fee
10 in an amount established by commission rule of at least \$100.

11 SECTION 7.31. Section 132.151, Education Code, is amended
12 to read as follows:

13 Sec. 132.151. PROHIBITIONS. A person may not:

14 (1) operate a career [~~proprietary~~] school or college
15 without a certificate of approval issued by the commission;

16 (2) solicit prospective students for or on behalf of a
17 career [~~proprietary~~] school or college without being registered as
18 a representative of the career [~~proprietary~~] school or college as
19 required by this chapter;

20 (3) accept contracts or enrollment applications from a
21 representative who is not bonded as required by this chapter;

22 (4) utilize advertising designed to mislead or deceive
23 prospective students;

24 (5) fail to notify the commission of the
25 discontinuance of the operation of any career [~~proprietary~~] school
26 or college within 72 hours of cessation of classes and make
27 available accurate records as required by this chapter;

1 (6) fail to secure and file within 30 days an increased
2 bond as required by this chapter;

3 (7) negotiate any promissory instrument received as
4 payment of tuition or other charge prior to completion of 75 percent
5 of the course, provided that prior to such time, the instrument may
6 be transferred by assignment to a purchaser who shall be subject to
7 all the defenses available against the career [~~proprietary~~] school
8 or college named as payee; or

9 (8) violate any provision of this chapter.

10 SECTION 7.32. Section 132.153, Education Code, is amended
11 to read as follows:

12 Sec. 132.153. COMPETITIVE BIDDING; ADVERTISING. The
13 commission may not adopt rules to restrict competitive bidding or
14 advertising by a career [~~proprietary~~] school or college except to
15 prohibit false, misleading, or deceptive competitive bidding or
16 advertising practices. Those rules may not restrict:

17 (1) the use of an advertising medium;

18 (2) the size or duration of an advertisement; or

19 (3) advertisement under a trade name.

20 SECTION 7.33. Subsection (a), Section 132.154, Education
21 Code, is amended to read as follows:

22 (a) Whenever the commission has probable cause to believe
23 that any career [~~proprietary~~] school or college has committed any
24 acts that would be in violation of this chapter, the commission
25 shall apply for an injunction restraining the commission of such
26 acts.

27 SECTION 7.34. Section 132.156, Education Code, is amended

1 to read as follows:

2 Sec. 132.156. SANCTIONS. (a) If the commission has
3 reasonable cause to believe that a career [~~proprietary~~] school or
4 college has violated this chapter or a rule adopted under this
5 chapter, the commission may:

6 (1) order a peer review of the school or college; or

7 (2) suspend the admission of students to the school or
8 college.

9 (b) A peer review ordered under this section shall be
10 conducted by a peer review team composed of knowledgeable persons
11 selected by the commission. The commission shall attempt to
12 provide a balance on each team between members assigned to the team
13 who are from this state and those who are from other states. The
14 team shall provide the commission with an objective assessment of
15 the content of the career school or college's [~~proprietary~~
16 ~~school's~~] curriculum and its application. The costs of providing a
17 peer review team shall be paid by the school or college.

18 SECTION 7.35. Subsections (a) and (d), Section 132.157,
19 Education Code, are amended to read as follows:

20 (a) If a career [~~proprietary~~] school or college fails to
21 timely comply with the requirements of Section 132.064, in addition
22 to any other penalties authorized by law, the commission may assess
23 a penalty in an amount not greater than two times the amount that
24 the school or college would have paid in fees and other charges if
25 the school or college had complied with the requirements of Section
26 132.064 or may assess a penalty in the amount of the tuition or fee
27 charge to any students whose tuition or fees were contracted to be

1 funded by a prepaid federal or state source.

2 (b) If the commission finds that the career [~~proprietary~~
3 school or college acted intentionally, the commission may, in
4 addition to any other remedy available under law, assess a penalty
5 against the owner in an amount not greater than four times the
6 amount of the fees and charges that the school or college should
7 have paid or four times the amount of the student tuition that was
8 contracted to be funded from a prepaid federal or state source.

9 (c) The failure to notify the commission within four months
10 after the career school or college's [~~proprietary school's~~
11 earnings exceed that of a small career [~~proprietary~~ school or
12 college gives rise to a rebuttable presumption of intent for
13 purposes of assessment of a penalty.

14 (d) The failure to notify the commission within 10 days
15 after a career [~~proprietary~~ school or college has enrolled a
16 student whose tuition or fees are paid in whole or in part from a
17 prepaid federal or state source gives rise to a rebuttable
18 presumption of intent for purposes of assessment of a penalty.

19 SECTION 7.36. Subsections (a), (c) through (f), (h), and
20 (i), Section 132.201, Education Code, are amended to read as
21 follows:

22 (a) Certificate and registration fees, except those charged
23 pursuant to Subsection (d), shall be collected by the commission.
24 Each fee shall be in an amount set by the commission in an amount not
25 to exceed 150 percent of each fee in the following schedule:

26 (1) the initial fee for a career [~~proprietary~~ school
27 or college:

1 (A) for a certificate of approval is \$2,000; or

2 (B) for a small career [~~proprietary~~] school or
3 college certificate of approval is \$1,000;

4 (2) the first renewal fee and each subsequent renewal
5 fee for a career [~~proprietary~~] school or college is the greater of:

6 (A) an amount that is determined by applying a
7 percentage, not to exceed 0.3 percent, to the gross tuition and
8 fees, excluding refunds as provided by Section 132.061, of the
9 school or college; or

10 (B) \$500;

11 (3) the initial registration fee for a representative
12 is \$60;

13 (4) the annual renewal fee for a representative is
14 \$30;

15 (5) the fee for a change of a name of a career
16 [~~proprietary~~] school or college or owner is \$100;

17 (6) the fee for a change of an address of a career
18 [~~proprietary~~] school or college is \$180;

19 (7) the fee for a change in the name or address of a
20 representative or a change in the name or address of a career
21 [~~proprietary~~] school or college that causes the reissuance of a
22 representative permit is \$10;

23 (8) the application fee for an additional course is
24 \$150, except for seminar and workshop courses, for which the fee is
25 \$25;

26 (9) the application fee for a director, administrative
27 staff member, or instructor is \$15;

1 (10) the application fee for the authority to grant
2 degrees is \$2,000;

3 (11) the application fee for an additional degree
4 course is \$250; and

5 (12) the fee for an inspection required by commission
6 rule of classroom facilities that are separate from the main campus
7 is \$250.

8 (c) For purposes of this section, the gross amount of annual
9 student fees and tuition for a career [~~proprietary~~] school or
10 college is the amount determined by the commission based on any
11 report submitted by the school or college to the commission or other
12 information obtained by the commission.

13 (d) In connection with the regulation of any career
14 [~~proprietary~~] school or college or course through a memorandum of
15 understanding pursuant to Section 132.002(c), the commission shall
16 set an application and annual renewal fee, not to exceed \$2,000.
17 The fee shall be an amount reasonably calculated to cover the
18 administrative costs associated with assuming the additional
19 regulation.

20 (e) The fee for an investigation at a career [~~proprietary~~]
21 school or college to resolve a complaint filed against the school or
22 college is \$600. The fee may be charged only if:

23 (1) the complaint could not have been resolved by
24 telephone or written correspondence only;

25 (2) a representative of the commission visits the
26 school or college as a part of the complaint resolution process; and

27 (3) the school or college is found to be at fault.

1 (f) The commission may allow payment of any fee authorized
2 under this section or under Section 132.241 that exceeds \$1,000 to
3 be paid by installment. The commission shall provide for
4 appropriate interest charges and late penalties in addition to any
5 other remedy that is provided for by law for the late payment of a
6 fee installment authorized under this section. The commission may
7 assess a reasonable service charge or interest to be paid by a
8 career [~~proprietary~~] school or college that pays a fee by
9 installment in an amount not to exceed 10 percent annually of the
10 fee that is to be paid by installment.

11 (h) The commission may apply or prorate a fee paid by a small
12 career [~~proprietary~~] school or college that has complied with the
13 notification requirements of Section 132.064 toward an initial
14 certificate as a career [~~proprietary~~] school or college in the
15 event that a career [~~proprietary~~] school or college has ceased to
16 qualify as a small career [~~proprietary~~] school or college during a
17 certification period.

18 (i) The commission may charge each career [~~proprietary~~]
19 school or college a fee for the cost of a service that collects,
20 analyzes, and reports student-level data in order to assess the
21 outcome of students who attend career [~~proprietary~~] schools and
22 colleges. The total amount of the fees charged under this
23 subsection must not exceed the cost of the service to the
24 commission.

25 SECTION 7.37. Subsection (b), Section 52.013, Government
26 Code, is amended to read as follows:

27 (b) The board may:

- 1 (1) appoint any necessary or proper subcommittee;
- 2 (2) hire necessary employees;
- 3 (3) pay all reasonable expenses from available funds;
- 4 (4) approve curriculum for court reporter career
- 5 ~~[proprietary]~~ schools and colleges as provided by Section 132.055,
- 6 Education Code;
- 7 (5) approve court reporter programs in technical
- 8 institutes and public community colleges for purposes of
- 9 certification under Section 61.051, Education Code; and
- 10 (6) approve continuing professional education courses
- 11 for persons certified as court reporters.

12 SECTION 7.38. Subdivision (3), Section 305.002, Labor Code,

13 is amended to read as follows:

14 (3) "Eligible institution" means a career

15 ~~[proprietary]~~ school or college in this state that:

16 (A) holds a certificate of approval under Chapter

17 132, Education Code; and

18 (B) is approved by the commission under Section

19 305.023 for its students to participate in the grant program

20 established under this chapter.

21 SECTION 7.39. Section 305.023, Labor Code, is amended to

22 read as follows:

23 Sec. 305.023. APPROVAL OF INSTITUTIONS. The commission

24 shall approve a career ~~[proprietary]~~ school or college for its

25 students to participate in the grant program established under this

26 chapter if the school or college:

- 27 (1) has been accredited for not less than five years by

1 an accrediting agency recognized by the United States Department of
2 Education and maintains that accreditation;

3 (2) has held a certificate of approval under Chapter
4 132, Education Code, for at least five years; and

5 (3) offers one or more qualified education programs.

6 SECTION 7.40. Section E, Article 2.23A, Texas Non-Profit
7 Corporation Act (Article 1396-2.23A, Vernon's Texas Civil
8 Statutes), is amended to read as follows:

9 E. This article does not apply to:

10 (1) a corporation that solicits funds only from its
11 members;

12 (2) a corporation which does not intend to solicit and
13 receive and does not actually raise or receive contributions from
14 sources other than its own membership in excess of \$10,000 during a
15 fiscal year;

16 (3) a career [~~proprietary~~] school or college that has
17 received a certificate of approval from the Texas Workforce
18 Commission [~~State Commissioner of Education~~], a public institution
19 of higher education and foundations chartered for the benefit of
20 such institutions or any component part thereof, a private or
21 independent institution of higher education as defined by Section
22 61.003, Education Code, a postsecondary educational institution
23 with a certificate of authority to grant a degree issued by the
24 Texas Higher Education Coordinating Board, [~~Texas College and~~
25 ~~University System,~~] or an elementary or secondary school;

26 (4) religious institutions which shall be limited to
27 churches, ecclesiastical or denominational organizations, or other

1 established physical places for worship at which religious services
2 are the primary activity and such activities are regularly
3 conducted;

4 (5) a trade association or professional society whose
5 income is principally derived from membership dues and assessments,
6 sales, or services;

7 (6) any insurer licensed and regulated by the Texas
8 Department [~~State Board~~] of Insurance;

9 (7) an organization whose charitable activities
10 relate to public concern in the conservation and protection of
11 wildlife, fisheries, and allied natural resources;

12 (8) an alumni association of a public or private
13 institution of higher education in this state, provided that such
14 association is recognized and acknowledged by the institution as
15 its official alumni association.

16 ARTICLE 8. REPEALER

17 SECTION 8.01. The following laws are repealed:

18 (1) Section 201.002, Labor Code;

19 (2) Section 301.006, Labor Code, as added by
20 Subsection (a), Section 5.82, Chapter 76, Acts of the 74th
21 Legislature, Regular Session, 1995;

22 (3) Subsection (c), Section 301.061, Labor Code; and

23 (4) Subsection (k), Section 302.005, Labor Code.

24 ARTICLE 9. GENERAL CONFORMING AMENDMENTS

25 SECTION 9.01. Section 30.103, Education Code, is amended to
26 read as follows:

27 Sec. 30.103. MEMORANDUM OF UNDERSTANDING. The Texas Youth

1 Commission with the assistance of the Texas Workforce [~~Employment~~]
2 Commission and the Council on Workforce and Economic
3 Competitiveness shall by rule adopt a memorandum of understanding
4 that establishes the respective responsibility of those entities to
5 provide through local workforce development boards job training and
6 employment assistance programs to children committed or formerly
7 sentenced to the Texas Youth Commission. The Texas Youth
8 Commission shall coordinate the development of the memorandum of
9 understanding and include in its annual report information
10 describing the number of children in the preceding year receiving
11 services under the memorandum.

12 SECTION 9.02. Subsection (d), Section 501.095, Government
13 Code, is amended to read as follows:

14 (d) The Texas Workforce [~~Employment~~] Commission shall
15 coordinate the development of the memorandum of understanding.

16 SECTION 9.03. Subsection (b), Section 531.045, Government
17 Code, is amended to read as follows:

18 (b) The task force is composed of:

19 (1) a representative of:

20 (A) the attorney general's office, appointed by
21 the attorney general;

22 (B) the comptroller's office, appointed by the
23 comptroller;

24 (C) the commission, appointed by the
25 commissioner;

26 (D) the Texas Department of Health, appointed by
27 the commissioner of public health;

1 (E) the Texas Department of Human Services,
2 appointed by the commissioner of human services;

3 (F) the Texas Workforce Commission, appointed by
4 the executive director [~~presiding officer~~] of that agency; and

5 (G) the Texas Rehabilitation Commission,
6 appointed by the commissioner of that agency; and

7 (2) two representatives of each of the following
8 groups, appointed by the comptroller:

9 (A) retailers who maintain electronic benefits
10 transfer point-of-sale equipment;

11 (B) banks or owners of automatic teller machines;
12 and

13 (C) consumer or client advocacy organizations.

14 SECTION 9.04. Subsection (c), Section 572.003, Government
15 Code, is amended to read as follows:

16 (c) The term means a member of:

17 (1) the Public Utility Commission of Texas;

18 (2) the Texas Department of Economic Development
19 [~~Commerce~~];

20 (3) the Texas [~~Natural Resource Conservation~~]
21 Commission on Environmental Quality;

22 (4) the Texas Alcoholic Beverage Commission;

23 (5) The Finance Commission of Texas;

24 (6) the Texas Building and Procurement [~~General~~
25 ~~Services~~] Commission;

26 (7) the Texas Board of Criminal Justice;

27 (8) the board of trustees of the Employees Retirement

- 1 System of Texas;
- 2 (9) the Texas Transportation Commission;
- 3 (10) the Texas Workers' Compensation Commission;
- 4 (11) the Texas Department [~~State Board~~] of Insurance;
- 5 (12) the Parks and Wildlife Commission;
- 6 (13) the Public Safety Commission;
- 7 (14) the Texas Ethics Commission;
- 8 (15) the State Securities Board;
- 9 (16) the Texas Water Development Board;
- 10 (17) the governing board of a public senior college or
- 11 university as defined by Section 61.003, Education Code, or of The
- 12 University of Texas Southwestern Medical Center at Dallas, The
- 13 University of Texas Medical Branch at Galveston, The University of
- 14 Texas Health Science Center at Houston, The University of Texas
- 15 Health Science Center at San Antonio, The University of Texas
- 16 System Cancer Center, The University of Texas Health Science Center
- 17 at Tyler, University of North Texas Health Science Center at Fort
- 18 Worth, Texas Tech University Health Sciences Center, Texas State
- 19 Technical College--Harlingen, Texas State Technical
- 20 College--Marshall, Texas State Technical College--Sweetwater, or
- 21 Texas State Technical College--Waco;
- 22 (18) the Texas Higher Education Coordinating Board;
- 23 (19) the Texas Workforce [~~Employment~~] Commission;
- 24 (20) the State Banking Board;
- 25 (21) the board of trustees of the Teacher Retirement
- 26 System of Texas;
- 27 (22) the Credit Union Commission;

- 1 (23) the School Land Board;
- 2 (24) the board of the Texas Department of Housing and
3 Community Affairs;
- 4 (25) the Texas Racing Commission;
- 5 (26) the State Board of Dental Examiners;
- 6 (27) [~~the Texas Board of Licensure for Nursing Home~~
7 ~~Administrators,~~
- 8 [~~(28)~~] the Texas State Board of Medical Examiners;
- 9 (28) [~~(29)~~] the Board of Pardons and Paroles;
- 10 (29) [~~(30)~~] the Texas State Board of Pharmacy;
- 11 (30) [~~(31)~~] the Department of Information Resources
12 governing board;
- 13 (31) [~~(32)~~] the Motor Vehicle Board;
- 14 (32) [~~(33)~~] the Texas Real Estate Commission;
- 15 (33) [~~(34)~~] the board of directors of the State Bar of
16 Texas;
- 17 (34) [~~(35)~~] the bond review board;
- 18 (35) [~~(36)~~] the Texas Board of Health;
- 19 (36) [~~(37)~~] the Texas Board of Mental Health and
20 Mental Retardation;
- 21 (37) [~~(38)~~] the Texas Board on Aging;
- 22 (38) [~~(39)~~] the Texas Board of Human Services;
- 23 (39) [~~(40)~~] the Texas Funeral Service Commission;
- 24 (40) [~~(41)~~] the board of directors of a river
25 authority created under the Texas Constitution or a statute of this
26 state; or
- 27 (41) [~~(42)~~] the Texas Lottery Commission.

1 SECTION 9.05. Section 656.001, Government Code, is amended
2 to read as follows:

3 Sec. 656.001. STATE AGENCY EMPLOYMENT OPENINGS. Any
4 agency, board, bureau, commission, committee, council, court,
5 department, institution, or office in the executive or judicial
6 branch of state government that has an employment opening for which
7 persons from outside the agency will be considered shall list the
8 opening with the Texas Workforce [~~Employment~~] Commission.

9 SECTION 9.06. Subdivision (1), Section 656.021, Government
10 Code, is amended to read as follows:

11 (1) "Commission" means the Texas Workforce
12 [~~Employment~~] Commission.

13 SECTION 9.07. Section 657.009, Government Code, is amended
14 to read as follows:

15 Sec. 657.009. PUBLIC ENTITIES TO LIST POSITIONS WITH TEXAS
16 WORKFORCE [~~EMPLOYMENT~~] COMMISSION. (a) A public entity shall
17 provide to the Texas Workforce [~~Employment~~] Commission, under rules
18 adopted under this section by the commission, information regarding
19 an open position that is subject to the hiring preference required
20 by this chapter.

21 (b) The Texas Workforce [~~Employment~~] Commission shall make
22 available to the public the information provided by a public entity
23 under Subsection (a).

24 (c) To promote the purposes of this chapter, the Texas
25 Workforce [~~Employment~~] Commission shall adopt rules under this
26 section that facilitate the exchange of employment information
27 between public entities and individuals entitled to a preference

1 under this chapter.

2 (d) The Texas Workforce [~~Employment~~] Commission shall adopt
3 forms and procedures necessary to administer this section.

4 SECTION 9.08. Subsection (a), Section 772.0031, Government
5 Code, is amended to read as follows:

6 (a) The Human Resource Task Force is composed of a
7 representative of:

8 (1) the governor's office, appointed by the governor;

9 (2) the state auditor's office, appointed by the state
10 auditor;

11 (3) the comptroller's office, appointed by the
12 comptroller;

13 (4) the attorney general's office, appointed by the
14 attorney general;

15 (5) the Commission on Human Rights, appointed by the
16 presiding officer of that agency;

17 (6) the Employees Retirement System of Texas,
18 appointed by the presiding officer of the board of trustees of that
19 agency;

20 (7) the Texas Workforce Commission, appointed by the
21 executive director [~~presiding officer~~] of that agency;

22 (8) the Texas Workers' Compensation Commission,
23 appointed by the presiding officer of that agency;

24 (9) the Legislative Budget Board, appointed by the
25 presiding officer of the board;

26 (10) the State Agency Coordinating Council, appointed
27 by the presiding officer of that entity;

1 (11) the Texas Small State Agency Task Force,
2 appointed by the presiding officer of that entity;

3 (12) the Texas State Personnel Administrators
4 Association, appointed by the presiding officer of that entity; and

5 (13) each eligible state employee organization
6 certified by the comptroller under Section 403.0165, who must be
7 the chief elected representative of the organization.

8 SECTION 9.09. Subsection (a), Section 2162.051, Government
9 Code, is amended to read as follows:

10 (a) The State Council on Competitive Government consists of
11 the following individuals or the individuals they designate:

12 (1) the governor;

13 (2) the lieutenant governor;

14 (3) the comptroller;

15 (4) the speaker of the house of representatives;

16 (5) the commission's presiding officer; and

17 (6) the commissioner of the Texas Workforce
18 [~~Employment~~] Commission representing labor.

19 SECTION 9.10. Subsection (c), Section 115.002, Human
20 Resources Code, is amended to read as follows:

21 (c) The ex officio members are:

22 (1) the executive director [~~chair~~] of the Texas
23 Workforce [~~Employment~~] Commission;

24 (2) the commissioner of the Texas Rehabilitation
25 Commission;

26 (3) the executive director of the Texas Commission for
27 the Blind;

1 (4) the executive director of the Texas Commission for
2 the Deaf and Hard of Hearing; and

3 (5) other officials designated by the governor who
4 serve with other state agencies that provide services to persons
5 with disabilities.

6 SECTION 9.11. Subsection (a), Section 61.005, Labor Code,
7 is amended to read as follows:

8 (a) In the case of contumacy or other refusal by a person to
9 obey a subpoena issued by [~~a member of~~] the commission or an
10 authorized representative of the commission to that person, any
11 county or district court of this state in the jurisdiction of which
12 the inquiry is carried on or in the jurisdiction of which the person
13 guilty of contumacy or refusal to obey is found, resides, or
14 transacts business has jurisdiction, on application by the
15 commission or its representative, to issue to the person an order
16 requiring the person to appear before [~~a commissioner,~~] the
17 commission[~~7~~] or its authorized representative to:

18 (1) produce evidence if so ordered; or

19 (2) testify regarding the matter under investigation
20 or in question.

21 SECTION 9.12. Subsection (c), Section 62.107, Labor Code,
22 is amended to read as follows:

23 (c) The commissioner shall furnish a copy of each order
24 establishing a piece rate to the Texas Workforce [~~Employment~~]
25 Commission.

26 SECTION 9.13. Subdivision (8), Section 201.011, Labor Code,
27 is amended to read as follows:

1 (8) "Commission" means the Texas Workforce
2 ~~[Employment]~~ Commission.

3 SECTION 9.14. Subsections (a) and (b), Section 306.007,
4 Labor Code, are amended to read as follows:

5 (a) To assist in the reintegration into the labor force of
6 persons formerly sentenced to the institutional division or the
7 state jail division, the commission through Project RIO shall
8 provide:

9 (1) to those persons:

10 (A) information from local workforce development
11 boards on job training and employment referral services;

12 (B) information from the Texas Commission on
13 Alcohol and Drug Abuse on substance abuse treatment services;

14 (C) information from the Texas Department of
15 Housing and Community Affairs on housing services;

16 (D) information from the Texas Veterans
17 Commission on services for veterans; and

18 (E) information [~~from the Texas Department of~~
19 ~~Human Services~~] on tax refund voucher programs under Subchapter H
20 [D], Chapter 301 [~~31, Human Resources Code~~]; and

21 (2) to the employers and potential employers of those
22 persons:

23 (A) information from the Texas Department of
24 Economic Development [~~Commerce~~] on the enterprise zone program [~~and~~
25 ~~smart jobs fund program~~]; and

26 (B) information from local workforce development
27 boards on services listed in Section 2308.304, Government Code.

1 (b) The commission shall adopt a memorandum of
2 understanding with each of the following agencies that establishes
3 the respective responsibilities of the commission and the agencies
4 in providing information described by Subsection (a) to persons
5 formerly sentenced to the institutional division or the state jail
6 division of the Texas Department of Criminal Justice, to employers
7 or potential employers of those persons, and to local workforce
8 development boards:

- 9 (1) the Texas Commission on Alcohol and Drug Abuse;
- 10 (2) the Texas Department of Housing and Community
11 Affairs;
- 12 (3) the Texas Veterans Commission;
- 13 (4) the Texas Department of Human Services;
- 14 (5) the Texas Department of Economic Development
15 [~~Commerce~~]; and
- 16 (6) the Council on Workforce and Economic
17 Competitiveness.

18 ARTICLE 10. EFFECTIVE DATE

19 SECTION 10.01. Except as otherwise provided by this Act,
20 this Act takes effect September 1, 2003.