

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Workforce Commission.

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

ARTICLE 1. CONTINUATION OF COMMISSION; DEFINITIONS

SECTION 1.01. Section 301.001(d), Labor Code, is amended by amending Subdivisions (1) and (2) and adding Subdivision (2-a) to read as follows:

(1) "Chair" means the commissioner designated under Section 301.006 to serve as the chair for the commissioners' operations [~~the chair of the commission~~].

(2) "Commission":

(A) means the staff of the Texas Workforce Commission, if the term is used in a context that relates to the exercise of a power or duty, other than rulemaking or another policymaking power or duty expressly granted by law to the commissioners, but does not include any staff assigned specifically to assist or work in the office of one or more of the commissioners;

(B) means the Texas Workforce Commission as an agency of state government, if the term is used in a context that relates to an entity of government and does not relate to the exercise of a power or duty; and

(C) means the commissioners, if the term is used in a context relating to rulemaking by, or another policymaking

1 power or duty expressly granted by law to, the commissioners.

2 (2-a) "Commissioners" means the Texas workforce
3 commissioners appointed under Section 301.002 when acting as a
4 governmental body that adopts rules or exercises another
5 policymaking power or duty expressly granted by law to those
6 persons.

7 SECTION 1.02. Section 301.001, Labor Code, is amended by
8 adding Subsection (e) to read as follows:

9 (e) In a statute other than this title:

10 (1) "Texas workforce commissioners" has the meaning
11 assigned to "commissioners" by Subsection (d).

12 (2) "Texas Workforce Commission" has the meaning
13 assigned to "commission" by Subsection (d).

14 SECTION 1.03. Section 301.008, Labor Code, is amended to
15 read as follows:

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

20 ARTICLE 2. MEMBERSHIP ON GOVERNING BODY OF COMMISSION

21 SECTION 2.01. Section 301.002, Labor Code, is amended to
22 read as follows:

23 Sec. 301.002. COMMISSIONER [~~MEMBERSHIP~~] REQUIREMENTS. (a)
24 The Texas workforce commissioners are the governing body of the
25 commission. The commissioners are the following [~~is composed of~~]
26 three persons [~~members~~]:

27 (1) one person who is [~~of whom shall be~~] a

1 representative of labor;

2 (2) one person who is [~~of whom shall be~~] a
3 representative of employers; and

4 (3) one person who is a representative of [~~whom shall~~
5 ~~represent~~] the public.

6 (b) The governor shall appoint the commissioners [~~members~~]
7 and make the appointments without regard to the race, color,
8 disability, sex, religion, age, or national origin of the
9 appointees.

10 SECTION 2.02. Section 301.003, Labor Code, is amended to
11 read as follows:

12 Sec. 301.003. COMMISSIONER [~~MEMBER~~] RESTRICTIONS. (a) In
13 this section, "Texas trade association" means a cooperative and
14 voluntarily joined statewide association of business or
15 professional competitors in this state designed to assist its
16 members and its industry or profession in dealing with mutual
17 business or professional problems and in promoting their common
18 interest.

19 (b) A commissioner [~~member of the commission~~] may not engage
20 in any other business, vocation, or employment during the
21 commissioner's [~~member's~~] term [~~on the commission~~].

22 (c) A person may not be a commissioner or an employee of the
23 commission employed in a "bona fide executive, administrative, or
24 professional capacity," as that phrase is used for purposes of
25 establishing an exemption to the overtime provisions of the federal
26 Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.),
27 and its subsequent amendments, if:

1 (1) the person is an officer, employee, or paid
2 consultant of a Texas trade association in the field of labor,
3 business, workforce development, child care, or career schools and
4 colleges; or

5 (2) the person's spouse is an officer, manager, or paid
6 consultant of a Texas trade association in the field of labor,
7 business, workforce development, child care, or career schools and
8 colleges.

9 (d) A person may not serve as a commissioner if the person or
10 the person's spouse:

11 (1) is registered, certified, or licensed by a
12 regulatory agency in the field of career schools and colleges;

13 (2) is employed by or participates in the management
14 of a business entity or other organization regulated by or
15 receiving money from the commission; or

16 (3) owns or controls, directly or indirectly, more
17 than a 10 percent interest in a business entity or other
18 organization regulated by or receiving money from the commission.

19 ~~[(b) The public member of the commission may not be an~~
20 ~~officer, employee, or paid consultant of a labor-oriented or~~
21 ~~employer-oriented trade association while the member serves on the~~
22 ~~commission.]~~

23 SECTION 2.03. Section 301.004, Labor Code, is amended to
24 read as follows:

25 Sec. 301.004. EFFECT OF LOBBYING ACTIVITY. A person ~~[who is~~
26 ~~required to register as a lobbyist under Chapter 305, Government~~
27 ~~Code,]~~ may not be ~~[serve as]~~ a commissioner ~~[member of the~~

1 ~~commission]~~ or act as the general counsel to the commission if the
2 person is required to register as a lobbyist under Chapter 305,
3 Government Code, because of the person's activities for
4 compensation on behalf of a profession related to the operation of
5 the commission [~~while so registered~~]. If the person ceases to
6 engage in lobbying activity and files a notice of termination as
7 prescribed by Section 305.008, Government Code, the person may
8 serve as a commissioner [~~member of the commission~~] or act as the
9 general counsel to the commission.

10 SECTION 2.04. Section 301.006, Labor Code, as renumbered
11 from Section 202.005, Labor Code, by Section 11.02, Chapter 655,
12 Acts of the 74th Legislature, Regular Session, 1995, is amended to
13 read as follows:

14 Sec. 301.006. CHAIR. (a) The governor shall designate a
15 commissioner to serve as the chair for the commissioners'
16 operations [~~the chair of the commission from among the members of~~
17 ~~the commission~~]. The chair shall serve in that capacity at the
18 pleasure of the governor for a two-year term. The governor may
19 redesignate the same member to serve consecutive terms.

20 (b) Notwithstanding Subsection (a), the commissioner
21 [~~member of the commission~~] who represents the public shall serve as
22 chair:

23 (1) when the commissioners act [~~commission acts~~] under
24 Subchapter D, Chapter 212; and

25 (2) in the commissioners' [~~commission~~] hearings
26 involving unemployment insurance issues regarding tax coverage,
27 contributions, or reimbursements.

1 SECTION 2.05. Section 301.007, Labor Code, is amended to
2 read as follows:

3 Sec. 301.007. REMOVAL OF COMMISSIONERS [~~COMMISSION~~
4 ~~MEMBERS~~]. (a) It is a ground for removal of a commissioner [~~from~~
5 ~~the commission by impeachment~~] that the commissioner [~~a member~~]:

6 (1) during any 60-day period, is absent from each
7 [~~commission~~] meeting of the commissioners for which the
8 commissioner [~~member~~] received at least 48 hours' notice;

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

13 (3) does not maintain during service as a commissioner
14 the qualifications required by Section 301.002;

15 (4) is ineligible for membership as a commissioner
16 under Section 301.003 or 301.004;

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

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

25 (b) The validity of an action of the commissioners
26 [~~commission~~] is not affected by the fact that it was taken when a
27 ground for the removal of a commissioner [~~member of the commission~~]

1 existed.

2 (c) If the executive director has knowledge that a potential
3 ground for removal exists, the executive director shall notify the
4 chair of the potential ground. The chair shall then notify the
5 governor and the attorney general that a potential ground for
6 removal exists. If the potential ground for removal involves the
7 chair, the executive director shall notify the next highest ranking
8 commissioner, who shall then notify the governor and the attorney
9 general that a potential ground for removal exists.

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

12 Sec. 301.0075. COMMISSIONER TRAINING. (a) A person who is
13 appointed to and qualifies for office as a commissioner may not
14 vote, deliberate, or be counted as a commissioner in attendance at a
15 meeting of the commissioners until the person completes a training
16 program that complies with this section.

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

19 (1) the legislation that created the commission;

20 (2) the programs operated by the commission;

21 (3) the role and functions of the commission;

22 (4) the rules of the commission with an emphasis on the
23 rules that relate to disciplinary and investigatory authority;

24 (5) the current budget for the commission;

25 (6) the results of the most recent formal audit of the
26 commission;

27 (7) the requirements of:

1 (A) the open meetings law, Chapter 551,
2 Government Code;

3 (B) the public information law, Chapter 552,
4 Government Code;

5 (C) the administrative procedure law, Chapter
6 2001, Government Code; and

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

9 (8) any applicable ethics policies adopted by the
10 commissioners or the Texas Ethics Commission.

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

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

23 ARTICLE 3. POWERS AND DUTIES

24 SECTION 3.01. Section 301.023, Labor Code, is amended to
25 read as follows:

26 Sec. 301.023. COMPLAINTS AGAINST COMMISSION. (a) The
27 commission shall maintain a file on each written complaint filed

1 with the commission. The file must include:

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

3 (2) the date the complaint is received by the
4 commission;

5 (3) the subject matter of the complaint;

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

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

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

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

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

1 SECTION 3.02. Section 301.043, Labor Code, is amended to
2 read as follows:

3 Sec. 301.043. STANDARDS OF CONDUCT INFORMATION. The
4 executive director or the executive director's designee shall
5 provide to the commissioners [~~members of the commission~~] and
6 employees of the commission, as often as necessary, information
7 regarding the requirements for office or employment under this
8 chapter, including information regarding a person's [~~their~~]
9 responsibilities under applicable laws relating to standards of
10 conduct for state officers or employees.

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

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

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

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

26 (2) an [~~a comprehensive~~] analysis of the extent to
27 which the composition of the commission's personnel is in

1 accordance with state and [~~workforce that meets~~] federal law and a
2 description of [~~and state guidelines,~~

3 [~~(3) procedures by which a determination can be made~~
4 ~~of significant underuse in the commission's workforce of all~~
5 ~~persons for whom federal or state guidelines encourage a more~~
6 ~~equitable balance; and~~

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

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

11 (1) [~~cover an annual period,~~] be updated annually; [~~τ~~]

12 (2) be reviewed by the Commission on Human Rights for
13 compliance with Subsection (a-1)(1); [~~(a)~~τ] and

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

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

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

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

26 SECTION 3.05. Section 301.061, Labor Code, is amended to
27 read as follows:

1 Sec. 301.061. GENERAL POWERS AND DUTIES OF COMMISSIONERS
2 AND EXECUTIVE DIRECTOR. (a) The commissioners [~~commission~~] shall:

3 (1) set commission policies, including policies that
4 clearly separate the policymaking responsibilities of the
5 commissioners and the management responsibilities of the executive
6 director and the staff of the commission;

7 (2) hold the executive director accountable for
8 implementing the commissioners' policies;

9 (3) provide the public with a reasonable opportunity
10 to appear before the commissioners and speak on any issue under the
11 jurisdiction of the commission; and

12 (4) adopt rules as necessary for the administration of
13 this title.

14 (b) The executive director shall:

15 (1) administer this title as provided by rules adopted
16 by the commissioners [~~commission~~];

17 (2) oversee:

18 (A) the implementation of commission policies
19 set by the commissioners; and

20 (B) the daily governance and operation of the
21 commission;

22 (3) hold commission staff accountable for the staff's
23 performance of its duties;

24 (4) determine the organization of the commission
25 [~~agency~~] and methods of procedure of the commission [~~agency~~] in
26 accordance with this title; and

27 (5) [~~(3)~~] make expenditures necessary for the

1 operation of this title.

2 (c) Both the commissioners [~~commission~~] and the executive
3 director may require reports, conduct investigations, and take
4 other actions the commissioners [~~commission~~] or the executive
5 director considers necessary or suitable to fulfill the duties
6 imposed under this title.

7 SECTION 3.06. Subchapter D, Chapter 301, Labor Code, is
8 amended by adding Sections 301.0611, 301.0681, 301.0682, and
9 301.069 to read as follows:

10 Sec. 301.0611. DIRECTIVES FROM COMMISSIONERS TO COMMISSION
11 STAFF. The commissioners may issue a directive to the commission's
12 staff only if the directive is:

13 (1) approved by a majority vote of the commissioners
14 in an open meeting; and

15 (2) conveyed to the staff by the executive director.

16 Sec. 301.0681. POLICY ON TECHNOLOGICAL SOLUTIONS. The
17 commissioners shall develop and implement a policy requiring the
18 executive director and commission employees to research and propose
19 appropriate technological solutions to improve the commission's
20 ability to perform its functions. The technological solutions
21 must:

22 (1) ensure that:

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

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

27 (i) interact with the commission through

1 the Internet; and

2 (ii) access any service that can be
3 provided effectively through the Internet;

4 (2) be cost effective; and

5 (3) be developed through the commission's planning
6 processes.

7 Sec. 301.0682. NEGOTIATED RULEMAKING AND ALTERNATIVE
8 DISPUTE RESOLUTION POLICY. (a) The commissioners shall develop
9 and implement a policy to encourage the use of:

10 (1) negotiated rulemaking procedures under Chapter
11 2008, Government Code, for the adoption of the commissioners'
12 rules; and

13 (2) appropriate alternative dispute resolution
14 procedures under Chapter 2009, Government Code, to assist in the
15 resolution of internal and external disputes under the commission's
16 jurisdiction, other than proceedings conducted by the commission
17 under Title 2 and this title of this code that are not subject to
18 Subchapters C-H, Chapter 2001, Government Code.

19 (b) The commissioners' procedures relating to alternative
20 dispute resolution must conform, to the extent possible, to any
21 model guidelines issued by the State Office of Administrative
22 Hearings for the use of alternative dispute resolution by state
23 agencies.

24 (c) The commissioners shall designate a trained person to:

25 (1) coordinate the implementation of the policy
26 developed under Subsection (a);

27 (2) serve as a resource for any training needed to

1 implement the procedures for negotiated rulemaking or alternative
2 dispute resolution; and

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

5 Sec. 301.069. PARTNERSHIP WITH BUSINESS COMMUNITY. (a) To
6 meet the needs of businesses in this state and to equip workers and
7 job seekers with the skills required to compete for jobs in this
8 state, the commission shall:

9 (1) partner with the business community to:

10 (A) identify:

11 (i) skills required by the business
12 community;

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

16 (iii) employment opportunities offered by
17 the business community; and

18 (B) develop services and programs that are
19 designed to equip workers and job seekers with the skills required
20 by the business community; and

21 (2) support business and community economic
22 development activities of local workforce development boards and
23 the state.

24 SECTION 3.07. The changes in law made by this article to
25 Section 301.023, Labor Code, apply only to a written complaint
26 filed with the Texas Workforce Commission on or after the effective
27 date of this Act, regardless of whether the conduct or act that is

1 the subject of the complaint occurred or was committed before, on,
2 or after the effective date of this Act.

3 SECTION 3.08. The Texas Workforce Commission shall
4 implement Sections 301.046, 301.0681, 301.0682, and 301.069, as
5 added by this article, not later than February 1, 2004.

6 ARTICLE 4. WORKFORCE DEVELOPMENT

7 SECTION 4.01. Subchapter A, Chapter 302, Labor Code, is
8 amended by adding Sections 302.0042, 302.0043, and 302.013 to read
9 as follows:

10 Sec. 302.0042. EVALUATION OF ALLOCATION FORMULAS FOR CHILD
11 CARE DEVELOPMENT FUNDS. (a) The commission shall annually
12 evaluate the formulas used by the commission to distribute federal
13 child care development funds to local workforce development boards
14 in order to ensure that the formulas address the child care needs of
15 each local workforce development board.

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

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

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

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

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

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

27 (6) the number of vacant slots available for child

1 care placement in each local workforce development area.

2 Sec. 302.0043. EVALUATION OF EMPLOYMENT OUTCOMES OF PARENTS
3 RECEIVING SUBSIDIZED CHILD CARE. (a) To evaluate the
4 effectiveness of the commission's child care program in helping
5 parents who receive subsidized child care to maintain employment,
6 the commission shall compile, regarding each parent receiving
7 subsidized child care from the commission's child care program, the
8 following information regarding the wage and employment status of
9 the parent:

10 (1) if the parent receives both welfare and subsidized
11 child care, whether the parent finds employment;

12 (2) if the parent is a transitional or at-risk parent
13 receiving subsidized child care, whether the parent maintains the
14 parent's employment and increases the parent's earnings;

15 (3) the length of time the parent receives subsidized
16 child care;

17 (4) whether the parent continues to receive subsidized
18 child care as the parent transitions into work;

19 (5) the reasons the parent leaves the child care
20 program; and

21 (6) if the parent leaves the child care program,
22 whether the parent returns to welfare.

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

25 (c) The commission shall periodically analyze the
26 information collected by the commission under this section and
27 shall compile its findings regarding the effectiveness of the

1 commission's child care program in helping parents receiving
2 subsidized child care to maintain employment. The commission shall
3 make the information collected by the commission and the
4 commission's findings available to local workforce development
5 boards.

6 (d) Each local workforce development board shall use the
7 information developed under this section to implement changes
8 necessary to make the child care program operate more effectively.

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

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

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

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

23 (1) six members of local workforce development boards
24 who serve as members of the organization described by Subsection
25 (b); and

26 (2) three staff directors of local workforce
27 development boards who serve as members of the organization

1 described by Subsection (b).

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

4 (e) The advisory committee shall:

5 (1) meet at least quarterly;

6 (2) report to the commissioners at least annually; and

7 (3) advise the commissioners and commission staff
8 regarding the programs, policies, and rules of the commission that
9 affect the operations of local workforce development boards and the
10 local workforce delivery system.

11 SECTION 4.02. Subchapter C, Chapter 302, Labor Code, is
12 amended by adding Section 302.048 to read as follows:

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

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

22 (1) develop, maintain, and upgrade comprehensive
23 fiscal management systems;

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

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

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

3 (5) manage the contractors' performance across
4 multiple board programs; and

5 (6) identify and resolve long-standing oversight
6 problems of the board and performance problems of contract
7 providers.

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

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

17 SECTION 4.03. Subchapter D, Chapter 302, Labor Code, is
18 amended by adding Section 302.065 to read as follows:

19 Sec. 302.065. INTEGRATION OF BLOCK GRANT PROGRAMS AND
20 RELATED CASEWORKER FUNCTIONS. (a) To streamline the delivery of
21 services provided in local career development centers, the
22 commission and local workforce development boards shall integrate
23 the commission's administration of the following federal block
24 grant programs and the caseworker functions associated with those
25 programs as provided by this section:

26 (1) programs funded under:

27 (A) Chapter 31, Human Resources Code;

1 (B) Chapter 44, Human Resources Code;

2 (C) the Workforce Investment Act of 1998 (29
3 U.S.C. Section 2801 et seq.); and

4 (D) Temporary Assistance for Needy Families (42
5 U.S.C. Section 601 et seq.); and

6 (2) the food stamp employment and training program
7 authorized under 7 U.S.C. Section 2015(d).

8 (b) The commission, in consultation with local workforce
9 development boards, shall ensure that state level policies,
10 procedures, and organizational structures support the integration
11 of the federal block grant programs described by Subsection (a) and
12 the caseworker functions associated with those programs at the
13 local level.

14 (c) Each local career development center that provides
15 services through the federal block grant programs described by
16 Subsection (a) shall provide:

17 (1) an integrated determination through a single
18 caseworker of a customer's eligibility for services under any of
19 the programs; and

20 (2) integrated case management through a single
21 caseworker for a customer receiving services under any of the
22 programs.

23 SECTION 4.04. The Texas workforce commissioners shall adopt
24 rules to establish criteria to be used to evaluate each local
25 workforce development board as required by Section 302.048, Labor
26 Code, as added by this article, not later than May 1, 2004.

27 SECTION 4.05. The Texas Workforce Commission shall

1 implement Sections 302.048 and 302.065, Labor Code, as added by
2 this article, not later than September 1, 2004.

3 SECTION 4.06. The Texas Workforce Commission shall
4 implement Sections 302.0042 and 302.0043, Labor Code, as added by
5 this article, as soon as possible after the effective date of this
6 Act.

7 SECTION 4.07. (a) Not later than September 1, 2004, the
8 Texas Workforce Commission shall:

9 (1) conduct a review of the commission's programs,
10 policies, procedures, and organizational structure to identify
11 specific barriers to the integration by the commission of federal
12 block grant programs and the caseworker functions associated with
13 those programs;

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

18 (3) modify and develop the commission's programs,
19 policies, procedures, and organizational structure to support the
20 integration by the commission of federal block grant programs and
21 the caseworker functions associated with those programs.

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

25 (c) Not later than January 15, 2005, the Texas workforce
26 commissioners shall submit to the 79th Legislature a report
27 regarding the results of the review and pilot projects conducted by

1 the commission under Subsection (a) of this section. The report
2 must include the commissioners' recommendations for any statutory
3 changes required to facilitate the integration by the commission of
4 federal block grant programs and the caseworker functions
5 associated with those programs.

6 ARTICLE 5. ADULT EDUCATION AND LITERACY ISSUES

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

9 SUBCHAPTER I. ADULT EDUCATION AND LITERACY

10 Sec. 301.151. COOPERATION WITH TEXAS EDUCATION AGENCY TO
11 IMPROVE ADULT EDUCATION AND LITERACY SERVICES. The commission
12 shall collaborate with the Texas Education Agency to improve the
13 coordination and implementation of adult education and literacy
14 services in this state.

15 Sec. 301.152. DEVELOPMENT OF WORKPLACE LITERACY AND BASIC
16 SKILLS CURRICULUM. (a) Under contract with the Texas Education
17 Agency, the commission shall develop a demand-driven workplace
18 literacy and basic skills curriculum aimed at assisting local
19 workforce development boards to equip workers and job seekers with
20 the skills necessary to compete for current and emerging jobs in
21 this state.

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

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

27 (2) contract for field work to solicit the assistance

1 of workers, employers, providers, and local workforce development
2 boards in developing industry sector curricula;

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

6 (4) pilot test the curricula within the targeted
7 industry sectors and adjust the curricula based on feedback
8 received from workers and employers in those sectors.

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

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

14 SECTION 5.02. Section 302.021(a), Labor Code, is amended to
15 read as follows:

16 (a) The following job-training, employment, and
17 employment-related educational programs and functions are
18 consolidated under the authority of the division:

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

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

23 (2) [~~(3)~~] apprenticeship programs under Chapter 133,
24 Education Code;

25 (3) [~~(4)~~] postsecondary vocational and technical
26 job-training programs that are not a part of approved courses or
27 programs that lead to licensing, certification, or an associate

1 degree under Chapters 61, 130, and 135, Education Code, Subchapter
2 E, Chapter 88, Education Code, and Subchapter E, Chapter 96,
3 Education Code;

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

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

8 (6) [~~(7)~~] the work and family policies program under
9 Chapter 81;

10 (7) [~~(8)~~] job-training programs funded under [~~the Job~~
11 ~~Training Partnership Act (29 U.S.C. Section 1501 et seq.) and~~
12 ~~under~~] the Workforce Investment Act of 1998 (29 U.S.C. Section 2801
13 et seq.);

14 (8) [~~(9)~~] the job counseling program for displaced
15 homemakers under Chapter 304;

16 (9) [~~(10)~~] the reintegration of offenders program
17 under Chapter 306;

18 (10) [~~(11)~~] the inmate employment counseling program
19 under Section 499.051(f), Government Code;

20 (11) [~~(12)~~] the continuity of care program under
21 Section 501.095, Government Code;

22 (12) [~~(13)~~] a literacy program from state, local,
23 federal, and private funds available to the state for that purpose;

24 (13) [~~(14)~~] the employment service;

25 (14) [~~(15)~~] the community service program under the
26 National and Community Service Act of 1990 (42 U.S.C. Section 12501
27 et seq.);

1 (15) [~~(16)~~] the trade adjustment assistance program
2 under Part 2, Subchapter II, Trade Act of 1974 (19 U.S.C. Section
3 2271 et seq.);

4 (16) [~~(17)~~] education, employment, employment
5 support, training services, activities and programs funded under
6 Temporary Assistance for Needy Families (42 U.S.C. Section 601 et
7 seq.);

8 (17) [~~(18)~~] the food stamp employment and training
9 program authorized under 7 U.S.C. Section 2015(d); and

10 (18) [~~(19)~~] the functions of the State Occupational
11 Information Coordinating Committee.

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

15 (a) The agency shall:

16 (1) provide adequate staffing to develop, administer,
17 and support a comprehensive statewide adult education program and
18 coordinate related federal and state programs for education and
19 training of adults;

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

23 (3) develop the mechanism and guidelines for
24 coordination of comprehensive adult education and related skill
25 training services for adults with other agencies, both public and
26 private, in planning, developing, and implementing related
27 programs, including community education programs;

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

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

7 (6) prescribe and administer rules for teacher
8 certification for adult education;

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

11 (8) adopt or develop and administer a standardized
12 assessment mechanism for assessing all adult education program
13 participants who need literacy instruction, adult basic education,
14 or secondary education leading to an adult high school diploma or
15 the equivalent;

16 (9) collaborate with the Texas Workforce Commission to
17 improve the coordination and implementation of adult education and
18 literacy services in this state; and

19 (10) monitor and evaluate educational and employment
20 outcomes of students who participate in the agency's adult
21 education and literacy programs.

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

27 SECTION 5.04. Subchapter C, Chapter 2308, Government Code,

1 is amended by adding Section 2308.1016 to read as follows:

2 Sec. 2308.1016. DUTY TO FACILITATE DELIVERY OF INTEGRATED
3 ADULT EDUCATION AND LITERACY SERVICES. (a) In addition to any duty
4 imposed under Section 2305.1015, to facilitate the efficient
5 delivery of integrated adult education and literacy services in
6 this state, the council shall:

7 (1) evaluate adult education and literacy programs
8 administered by the Texas Education Agency and the Texas Workforce
9 Commission to identify:

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

12 (B) any lack of adequate client information
13 sharing between those agencies; and

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

16 (2) develop and implement immediate and long-range
17 strategies to address problems identified by the council under
18 Subdivision (1); and

19 (3) develop a system to monitor and evaluate the wage
20 and employment outcomes of students who participate in the adult
21 education and literacy programs administered by the Texas Education
22 Agency, including students referred to the programs by the Texas
23 Workforce Commission or local workforce development boards, to
24 ensure the effectiveness of the programs in improving the
25 employment-related outcomes of the students.

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

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

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

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

8 (1) identify the agency responsible for implementing
9 each strategy; and

10 (2) include a schedule for the implementation of each
11 strategy.

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

14 (i) The council shall include in the strategic plan the
15 long-range strategies developed by the council under Section
16 2308.1016 to facilitate the efficient delivery of integrated adult
17 education and literacy services in this state.

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

21 SECTION 5.07. The Texas Workforce Commission shall
22 implement Section 301.152, Labor Code, as added by this article,
23 not later than February 1, 2004.

24 SECTION 5.08. The Texas Education Agency shall implement
25 Section 29.252(a), Education Code, as amended by this article, and
26 Section 29.252(a-1), Education Code, as added by this article, as
27 soon as possible after the effective date of this Act.

1 SECTION 5.09. The Council on Workforce and Economic
2 Competitiveness shall implement Sections 2308.1016 and
3 2308.104(i), Government Code, as added by this article, not later
4 than February 1, 2004.

5 ARTICLE 6. PARTIAL TRANSFERS OF UNEMPLOYMENT
6 COMPENSATION EXPERIENCE RATES

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

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

12 (1) immediately after the acquisition the successor
13 employing unit continues operation of substantially the same part
14 of the organization, trade, or business acquired;

15 (2) the predecessor employer waives in writing all
16 rights to an experience rating computed on the compensation
17 experience attributable to the part of the organization, trade, or
18 business acquired by the successor employing unit, unless the
19 acquisition results from the death of the predecessor employer;

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

23 (4) for a successor employing unit that is not an
24 employer at the time of the acquisition, the successor employing
25 unit elects to become an employer on the date of the acquisition or
26 otherwise becomes an employer during the year in which the
27 acquisition occurs;

1 (5) the application was filed with the commission not
2 later than the first anniversary of the effective date of the
3 acquisition; and

4 (6) the applicants have shown that:

5 (A) the acquired part of the organization, trade,
6 or business is capable of operating independently and separately
7 from the predecessor employer; and

8 (B) the wages attributable to the acquired part
9 of the organization, trade, or business are:

10 (i) separate and distinct from other wages
11 of the predecessor employer; and

12 (ii) solely attributable to services
13 provided on behalf of the acquired part of the organization, trade,
14 or business.

15 (d) The commission may deny a transfer of compensation
16 experience under this section if the commission determines based on
17 credible evidence that the acquisition was done solely to qualify
18 for a reduced unemployment insurance tax rate by:

19 (1) circumventing the experience rating system; or

20 (2) eliminating chargebacks to the predecessor
21 employer's tax account.

22 SECTION 6.02. The changes in law made by this article to
23 Section 204.084, Labor Code, apply only to an acquisition of an
24 organization, trade, or business that occurs on or after the
25 effective date of this Act. An acquisition of an organization,
26 trade, or business that occurs before the effective date of this Act
27 is governed by the law in effect on the date that the acquisition

1 occurred, and that law is continued in effect for that purpose.

2 ARTICLE 7. CAREER SCHOOLS AND COLLEGES

3 PART 1. SUBSTANTIVE CHANGES REGARDING CAREER SCHOOLS AND COLLEGES

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

6 Sec. 132.0015. REFERENCE TO PROPRIETARY SCHOOL. A
7 reference in this code or another law to a proprietary school means
8 a career school or college.

9 SECTION 7.02. Section 132.061, Education Code, is amended
10 to read as follows:

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

16 (1) the student cancels the enrollment agreement or
17 contract within 72 hours (until midnight of the third day excluding
18 Saturdays, Sundays, and legal holidays) after the enrollment
19 contract is signed by the prospective student; or

20 (2) the enrollment of the student was procured as the
21 result of any misrepresentation in advertising, promotional
22 materials of the school or college, or representations by the owner
23 or representatives of the school or college.

24 (b) Except as provided by Subsection (g), as a condition for
25 granting certification each career [~~proprietary~~] school or college
26 must maintain a policy for the refund of the unused portion of
27 tuition, fees, and other charges in the event the student, after

1 expiration of the 72-hour cancellation privilege, fails to enter
2 the course, withdraws, or is discontinued therefrom at any time
3 prior to completion, and such policy must provide:

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

7 (2) the effective date of the termination for refund
8 purposes in residence schools or colleges will be the earliest of
9 the following:

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

12 (B) the date of receipt of written notice from
13 the student; or

14 (C) 10 school days following the last date of
15 attendance;

16 (3) if tuition and fees are collected in advance of
17 entrance, and if, after expiration of the 72-hour cancellation
18 privilege, the student does not enter the residence school or
19 college, not more than \$100 shall be retained by the school or
20 college;

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

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

1 (B) after the first week or one-tenth of the
2 course, whichever is less, but within the first three weeks or
3 one-fifth of the course, whichever is less, 80 percent of the
4 remaining tuition and fees;

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

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

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

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

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

18 (6) refunds of items of extra expense to the student,
19 such as instructional supplies, books, student activities,
20 laboratory fees, service charges, rentals, deposits, and all other
21 such ancillary miscellaneous charges, where these items are
22 separately stated and shown in the data furnished the student
23 before enrollment, will be made in a reasonable manner acceptable
24 to the commission;

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

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

3 (9) the effective date of the termination for refund
4 purposes in correspondence courses will be the earliest of the
5 following:

6 (A) the date of notification to the student if
7 the student is terminated;

8 (B) the date of receipt of written notice from
9 the student; or

10 (C) the end of the third calendar month following
11 the month in which the student's last lesson assignment was
12 received unless notification has been received from the student
13 that the student wishes to remain enrolled;

14 (10) if tuition and fees are collected before any
15 lessons have been completed, and if, after expiration of the
16 72-hour cancellation privilege, the student fails to begin the
17 course, not more than \$50 shall be retained by the school or
18 college;

19 (11) in cases of termination or withdrawal after the
20 student has begun the correspondence course, the school or college
21 may retain \$50 of tuition and fees, and the minimum refund policy
22 must provide that the student will be refunded the pro rata portion
23 of the remaining tuition, fees, and other charges that the number of
24 lessons completed and serviced by the school or college bears to the
25 total number of lessons in the course; and

26 (12) refunds based on enrollment in correspondence
27 schools or colleges will be totally consummated within 60 days

1 after the effective date of termination.

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

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

12 (e) If a refund is not made within the period required by
13 this section, the career [~~proprietary~~] school or college shall pay
14 a penalty. If the refund is made to a lending institution, the
15 penalty shall also be paid to that institution and applied against
16 the student's loan. The commission annually shall establish the
17 level of the penalty at a level sufficient to provide a deterrent to
18 the retention of student funds. The commission may exempt a school
19 or college from the payment of the penalty if the school or college
20 makes a good faith effort to refund the tuition, fees, and other
21 charges but is unable to locate the student. The school or college
22 shall provide to the commission on request documentation of the
23 effort to locate the student.

24 (f) A career [~~proprietary~~] school or college shall record a
25 grade of "incomplete" for a student who withdraws but is not
26 entitled to a refund under Subsection (b)(4)(F) if the student
27 requests the grade at the time the student withdraws and the student

1 withdraws for an appropriate reason unrelated to the student's
2 academic status. A student who receives a grade of incomplete may
3 re-enroll in the program during the 12-month period following the
4 date the student withdraws and complete those incomplete subjects
5 without payment of additional tuition.

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

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

16 (2) the effective date of the termination for refund
17 purposes is the earlier of:

18 (A) the last date of attendance; or

19 (B) the date the school or college receives
20 written notice from the student that the student is withdrawing
21 from the class; and

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

26 (h) A closing career school or college shall make a full
27 refund to each student of the school or college who is owed a refund

1 under this section.

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

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

7 SUBCHAPTER J. CEASE AND DESIST ORDERS

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

11 (1) the commission has reason to believe that the
12 person is operating a career school or college without a
13 certificate issued by the commission in violation of Section
14 132.151; and

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

18 (b) The commission shall serve on the person a statement of
19 charges and a notice of hearing, including a copy of the applicable
20 rules of the commission.

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

26 Sec. 132.303. CEASE AND DESIST ORDER. After a hearing held
27 under this subchapter, the commission may issue against the person

1 charged with operating a career school or college without a
2 certificate issued by the commission an order that requires that
3 the person immediately cease and desist from violating this
4 chapter.

5 Sec. 132.304. ENFORCEMENT; REFERRAL TO THE ATTORNEY
6 GENERAL. The commission may refer the matter to the consumer
7 protection division of the attorney general's office for
8 enforcement if the commission has reason to believe that a person
9 has violated or failed to respond to a cease and desist order issued
10 under this subchapter.

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

14 Sec. 132.306. RULES. The commissioners shall adopt rules
15 as necessary to implement this subchapter.

16 SECTION 7.04. Section 132.241, Education Code, is amended
17 by amending Subsections (a), (b), (d), and (e), and adding
18 Subsections (f) and (g) to read as follows:

19 (a) Except as provided by Subsection (d), at the time that
20 each career [~~proprietary~~] school or college pays its annual renewal
21 fee, in the years provided by Subsection (b), the commission shall
22 also collect a fee from the school or college for deposit to the
23 credit of the career [~~proprietary~~] school or college tuition
24 protection fund.

25 (b) If on January 1 of any year the amount in the fund is
26 less than \$400,000 [~~\$200,000~~], the commission shall collect a fee
27 during that year by applying a percentage to each career school or

1 college's [~~proprietary school's~~] annual renewal fee at a rate that
2 will bring the balance of the fund to \$500,000 [~~\$250,000~~].

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

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

14 (f) From money in the tuition protection fund, the
15 commission shall attempt to provide a full refund to each student of
16 a closed career school or college of the amount of the refund owed
17 to the student under Section 132.061. The commission may provide a
18 partial refund to a student only if the commission determines that
19 the amount of money in the tuition protection fund is not sufficient
20 to provide a full refund to the student. The commission shall
21 consider the following factors in determining the amount of a
22 partial refund to be paid to a student:

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

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

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

1 (4) the availability of other licensed career schools
2 or colleges at which the student may complete the student's
3 training.

4 (g) Notwithstanding Subsections (b) and (e), in the state
5 fiscal year ending August 31, 2004, the balance of the tuition
6 protection fund may not exceed \$375,000. This subsection expires
7 September 1, 2005.

8 SECTION 7.05. Section 132.242, Education Code, is amended
9 to read as follows:

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

14 (b) The expense incurred by a career [~~proprietary~~] school or
15 college in providing a teachout that is directly related to
16 educating a student placed in the school or college under this
17 section, including the applicable tuition for the period for which
18 the student has paid tuition, shall be paid from the career
19 [~~proprietary~~] school or college tuition protection fund.

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

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

1 (e) If the amount of the closed career school or college's
2 [~~proprietary school's~~] bond under Section 132.060 is less than the
3 amount required for student refunds under Subsections (c) and (d),
4 the refunds shall be paid from the career [~~proprietary~~] school or
5 college tuition protection fund in an amount not to exceed \$150,000
6 [~~\$50,000~~].

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

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

15 PART 2. CONFORMING AMENDMENTS REGARDING
16 CAREER SCHOOLS AND COLLEGES

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

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

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

26 (5) "Institution of higher education" means (i) any
27 institution of higher education as defined by Subdivision (8) of

1 Section 61.003 of this code, or (ii) a degree-granting college or
2 university corporation accredited by the Texas Education Agency or
3 by a recognized accrediting agency, as defined by Subdivision (13)
4 of Section 61.003 of this code, or (iii) a postsecondary career
5 [~~proprietary~~] school or college accredited by the Association of
6 Independent Colleges and Schools, the National Association of Trade
7 and Technical Schools, or the National Accrediting Commission of
8 Cosmetology Arts and Sciences.

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

11 Sec. 54.6001. PUBLIC PURPOSE. An educated population being
12 necessary to the social development and economic health of this
13 state, the legislature finds and declares it to be an urgent public
14 necessity to assist young Texans in obtaining a higher education.
15 Because the state's population is rapidly growing and is diverse,
16 the state is required to use all of the higher education facilities
17 and resources within the state, both public and private, to provide
18 a wide variety of educational environments and instructional
19 options and to preserve the partnership between the state and
20 private or independent institutions of higher education and between
21 the state and career [~~proprietary~~] schools and colleges, as defined
22 by Section 132.001, that offer a two-year associate degree as
23 approved by the Texas Higher Education Coordinating Board.
24 Therefore, the prepaid higher education tuition program is
25 established to help Texas students attend the institution that best
26 meets their individual needs.

27 SECTION 7.09. Section 54.601(9), Education Code, is amended

1 to read as follows:

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

6 SECTION 7.10. Section 54.605(a), Education Code, is amended
7 to read as follows:

8 (a) A prepaid tuition contract remains in effect after the
9 program is terminated if, when the program is terminated, the
10 beneficiary:

11 (1) has been accepted by or is enrolled in an
12 institution of higher education, a private or independent
13 institution of higher education, or a career [~~proprietary~~] school
14 or college; or

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

18 SECTION 7.11. Section 54.618(b), Education Code, is amended
19 to read as follows:

20 (b) The board may:

21 (1) adopt an official seal;

22 (2) adopt rules to implement this subchapter;

23 (3) sue and be sued;

24 (4) enter into contracts and other necessary
25 instruments;

26 (5) enter into agreements or other transactions with
27 the United States, state agencies, including institutions of higher

1 education, private or independent institutions of higher
2 education, career [~~proprietary~~] schools and colleges, and local
3 governments;

4 (6) appear in its own behalf before governmental
5 agencies;

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

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

13 (9) impose administrative fees;

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

15 (11) purchase liability insurance covering the board
16 and employees and agents of the board; and

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

19 SECTION 7.12. Section 54.619(h), Education Code, is amended
20 to read as follows:

21 (h) Notwithstanding other provisions of this subchapter,
22 any contract benefits purchased under this subchapter may be
23 applied to the payment of tuition and required fees at a career
24 [~~proprietary~~] school or college as if the [~~proprietary~~] school or
25 college were an institution of higher education or private or
26 independent institution of higher education. On the purchaser's
27 request, the board shall apply, in accordance with Section 54.628,

1 any existing amount of prepaid tuition contract benefits to the
2 payment of tuition and required fees at a career [~~proprietary~~
3 school or college. The board is not responsible for the payment of
4 tuition and required fees at the career [~~proprietary~~] school or
5 college in excess of that amount. The board may adopt rules as
6 necessary to implement this subsection.

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

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

10 SECTION 7.14. Section 132.001, Education Code, is amended
11 by amending Subdivisions (1)-(8) and (10)-(12) and adding
12 Subdivision (13) to read as follows:

13 (1) "Career school or college" [~~"Proprietary school"~~]
14 means any business enterprise operated for a profit, or on a
15 nonprofit basis, that maintains a place of business within this
16 state, or solicits business within this state, and that is not
17 specifically exempted by this chapter and:

18 (A) that offers or maintains a course or courses
19 of instruction or study; or

20 (B) at which place of business such a course or
21 courses of instruction or study is available through classroom
22 instruction or by correspondence, or both, to a person for the
23 purpose of training or preparing the person for a field of endeavor
24 in a business, trade, technical, or industrial occupation, or for
25 avocational or personal improvement.

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

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

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

5 (C) in the case of a career school or college
6 owned by a corporation, the corporation, its directors, officers,
7 and each shareholder owning shares of issued and outstanding stock
8 aggregating at least 10 percent of the total of the issued and
9 outstanding shares;

10 (D) in the case of a career school or college in
11 which the ownership interest is held in trust, the beneficiary of
12 that trust; or

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

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

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

25 (5) "Agency administrator" means the agency
26 administrator of the Texas Workforce Commission or a person,
27 knowledgeable in the administration of regulating career

1 ~~[proprietary]~~ schools and colleges, designated by the agency
2 administrator to administer this chapter.

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

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

11 (8) "Person" means any individual, firm, partnership,
12 association, corporation, or other private entity or combination
13 ~~[thereof]~~.

14 (10) "Small career school or college" ~~[proprietary~~
15 ~~school]~~ means a career ~~[proprietary]~~ school or college that does
16 not receive any payment from federal funds under 20 U.S.C. Section
17 1070 et seq. and its subsequent amendments or a prepaid federal or
18 state source as compensation in whole or in part for any student
19 tuition and fees or other charges and either:

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

23 (B) exclusively offers programs to assist
24 students to prepare for an undergraduate or graduate course of
25 study at a college or university; or

26 (C) exclusively offers programs to assist
27 students, who have obtained, or who are in the process of obtaining,

1 degrees after completing an undergraduate or graduate course of
2 study at a college or university, to prepare for an examination.

3 (11) "Commission" means the Texas Workforce
4 Commission and has the meaning assigned to "commission" by Section
5 301.001, Labor Code.

6 (12) "Division" means the division of education of
7 ~~in~~ the commission.

8 (13) "Commissioners" has the meaning assigned by
9 Section 301.001, Labor Code.

10 SECTION 7.15. Section 132.002(a), Education Code, is
11 amended to read as follows:

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

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

17 (2) nonprofit schools owned, controlled, operated,
18 and conducted by bona fide religious, denominational,
19 eleemosynary, or similar public institutions exempt from property
20 taxation under the laws of this state, but such schools may choose
21 to apply for a certificate of approval hereunder, and upon approval
22 and issuance, are subject to this chapter as determined by the
23 commission;

24 (3) a school or training program that offers
25 instruction of purely avocational or recreational subjects as
26 determined by the commission;

27 (4) a course or courses of instruction or study

1 sponsored by an employer for the training and preparation of its own
2 employees, and for which no tuition fee is charged to the student;

3 (5) a course or courses of study or instruction
4 sponsored by a recognized trade, business, or professional
5 organization for the instruction of the members of the organization
6 with a closed membership;

7 (6) private colleges or universities that award a
8 recognized baccalaureate, or higher degree, and that maintain and
9 operate educational programs for which a majority of the credits
10 given are transferable to a college, junior college, or university
11 supported entirely or partly by taxation from either a local or
12 state source;

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

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

20 (9) a school that offers intensive review of a
21 student's acquired education, training, or experience to prepare
22 the student for an examination, other than a high school
23 equivalency examination, that the student by law may not take
24 unless the student has completed or substantially completed a
25 particular degree program, or that the student is required to take
26 as a precondition for enrollment in or admission to a particular
27 degree program;

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

5 (11) a course or courses of instruction by bona fide
6 electrical trade associations for the purpose of preparing students
7 for electrical tests required for licensing and for the purpose of
8 providing continuing education to students for the renewal of
9 electrical licenses;

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

14 (13) a course or training program conducted by a
15 nonprofit association of air conditioning and refrigeration
16 contractors approved by the Air Conditioning and Refrigeration
17 Contractors Advisory Board to provide instruction for technical,
18 business, or license examination preparation programs relating to
19 air conditioning and refrigeration contracting, as that term is
20 defined by Chapter 1302, Occupations Code [~~the Air Conditioning and
21 Refrigeration Contractor License Law (Article 8861, Vernon's Texas
22 Civil Statutes)~~];

23 (14) a course of instruction by a plumbing trade
24 association to prepare students for a plumbing test or program
25 required for licensing, certification, or endorsement or to provide
26 continuing education approved by the Texas State Board of Plumbing
27 Examiners; and

1 (15) a course of instruction in the use of
2 technological hardware or software if the course is offered to a
3 purchaser of the hardware or software or to the purchaser's
4 employee by a person who manufactures and sells, or develops and
5 sells, the hardware or software, and if the seller is not primarily
6 in the business of providing courses of instruction in the use of
7 the hardware or software, as determined by the commission.

8 SECTION 7.16. Sections 132.021(a), (b), and (d), Education
9 Code, are amended to read as follows:

10 (a) The commission shall exercise jurisdiction and control
11 of the system of career [~~proprietary~~] schools and colleges, and the
12 commission shall carry out supervision of the provisions of this
13 chapter, and enforce minimum standards for approval of career
14 [~~proprietary~~] schools and colleges under the operating regulations
15 and policies hereinafter set forth and as may be adopted pursuant to
16 this chapter.

17 (b) The commission shall prepare a comparison of the cost to
18 a student of courses of instruction or training programs at career
19 [~~proprietary~~] schools and colleges to the cost to a student of
20 similar courses or programs at schools that are exempt from this
21 chapter under Section 132.002.

22 (d) The commissioners [~~commission~~] shall adopt policies and
23 rules necessary for carrying out this chapter.

24 SECTION 7.17. Section 132.022, Education Code, is amended
25 to read as follows:

26 Sec. 132.022. DUTIES OF COMMISSION. The commission shall
27 carry out the policies of this chapter and enforce the rules adopted

1 under this chapter. The commission shall also certify the names of
2 those career [~~proprietary~~] schools and colleges meeting the
3 requirements for a certificate of approval.

4 SECTION 7.18. Section 132.023, Education Code, is amended
5 to read as follows:

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

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

22 (c) The memorandum of understanding shall:

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

27 (2) require the sharing of specific information

1 relating to the indicators between the commission and the Texas
2 Guaranteed Student Loan Corporation or other agency; and

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

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

14 SECTION 7.19. Section 132.051, Education Code, is amended
15 to read as follows:

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

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

22 (2) the date the school or college receives a
23 certificate of approval from the commission.

24 (b) Any contract entered into with any person for a course
25 of instruction by or on behalf of any person operating any career
26 [~~proprietary~~] school or college to which a certificate of approval
27 has not been issued pursuant to this chapter is unenforceable in any

1 action brought thereon.

2 SECTION 7.20. Section 132.052, Education Code, is amended
3 to read as follows:

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

11 SECTION 7.21. Section 132.053, Education Code, is amended
12 to read as follows:

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

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

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

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

26 (4) the bonding requirements of Section 132.060;

27 (5) the examination of a school or college for

1 compliance under Section 132.056(f);

2 (6) the reporting requirements of Section 132.055(o);
3 and

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

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

14 SECTION 7.22. Section 132.054, Education Code, is amended
15 to read as follows:

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

20 SECTION 7.23. Section 132.055, Education Code, is amended
21 to read as follows:

22 Sec. 132.055. CRITERIA. The commission may approve the
23 application of such career [~~proprietary~~] school or college when the
24 school or college is found, upon investigation at the premises of
25 the school or college, to have met the following criteria:

26 (a) The courses, curriculum, and instruction are of such
27 quality, content, and length as may reasonably and adequately

1 achieve the stated objective for which the courses, curriculum, or
2 instruction are offered. Before a school or college conducts a
3 course of instruction in court reporting, the school or college
4 must produce evidence that the school or college has obtained
5 approval for the curriculum from the Court Reporters Certification
6 Board.

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

10 (c) Educational and experience qualifications of directors,
11 administrators, and instructors are adequate.

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

19 (e) A copy of the course outline; schedule of tuition, fees,
20 refund policy, and other charges; regulations pertaining to
21 absence, grading policy, and rules of operation and conduct;
22 regulations pertaining to incomplete grades; the name, mailing
23 address, and telephone number of the commission for the purpose of
24 directing complaints to the agency; the current rates of job
25 placement and employment of students issued a certificate of
26 completion; and notification of the availability of the cost
27 comparison information prepared under Section 132.021(b) through

1 the commission will be furnished the student prior to enrollment.

2 (f) Except as provided by Section 132.062, on completion of
3 training, the student is given a certificate by the school or
4 college indicating the course and that training was satisfactorily
5 completed.

6 (g) Adequate records as prescribed by the commission are
7 kept to show attendance and progress or grades, and satisfactory
8 standards relating to attendance, progress, and conduct are
9 enforced.

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

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

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

19 (k) The school or college has, maintains, and publishes in
20 its catalogue and enrollment contract the proper policy for the
21 refund of the unused portion of tuition, fees, and other charges in
22 the event the student enrolled by the school or college fails to
23 take the course or withdraws or is discontinued therefrom at any
24 time prior to completion.

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

1 (m) Such additional criteria as may be required by the
2 commission.

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

5 (o) The school or college furnishes to the commission the
6 current rates of students who receive a certificate of completion
7 and of job placement and employment of students issued a
8 certificate of completion.

9 (p) The school or college furnishes to the commission for
10 approval or disapproval student admission requirements for each
11 course or program offered by the school or college.

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

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

17 SECTION 7.24. Section 132.056, Education Code, is amended
18 to read as follows:

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

20 (a) The commission, upon review of an application for a certificate
21 of approval duly submitted in accordance with Section 132.052 and
22 meeting the requirements of Section 132.055, shall issue a
23 certificate of approval to the applicant career [~~proprietary~~]
24 school or college. The certificate of approval shall be in a form
25 prescribed by the commission and shall state in a clear and
26 conspicuous manner at least the following information:

27 (1) date of issuance, effective date, and term of

1 approval;

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

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

6 (4) signature of the agency administrator; and

7 (5) any other fair and reasonable representations that
8 are consistent with this chapter and deemed necessary by the
9 commission.

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

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

17 (d) At least 30 days prior to expiration of a certificate of
18 approval, the career [~~proprietary~~] school or college shall forward
19 to the commission an application for renewal. The commission shall
20 reexamine the premises of the school or college as frequently as the
21 commission considers necessary and renew, revoke, or deny renewal
22 of the school or college's [~~school's~~] certificate of approval. If a
23 school or college fails to file a complete application for renewal
24 at least 30 days before the expiration date of the certificate of
25 approval, the school or college, as a condition of renewal, must
26 pay, in addition to the annual renewal fee, a late renewal fee in an
27 amount established by commission rule of at least \$100.

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

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

9 SECTION 7.25. Section 132.058, Education Code, is amended
10 to read as follows:

11 Sec. 132.058. REVOCATION OF CERTIFICATE OF APPROVAL. (a)
12 The commission may revoke an issued certificate of approval or
13 place reasonable conditions upon the continued approval
14 represented by the certificate. Prior to revocation or imposition
15 of conditions upon a certificate of approval, the commission shall
16 notify the holder of the certificate, in writing, of the impending
17 action and set forth the grounds for the action. The commission may
18 reexamine a career [~~proprietary~~] school or college two or more
19 times during each year in which a notice relating to the school or
20 college has been issued or conditions have been imposed on the
21 school or college under this subsection.

22 (b) A certificate of approval may be revoked or made
23 conditional if the commission has reasonable cause to believe that
24 the career [~~proprietary~~] school or college is guilty of a violation
25 of this chapter or of any rules adopted under this chapter.

26 SECTION 7.26. Sections 132.059(a), (b), and (d), Education
27 Code, are amended to read as follows:

1 (a) All representatives employed by a career [~~proprietary~~]
2 school or college shall register with the commission. Application
3 for registration may be made at any time and shall be based on
4 information submitted in accordance with the provisions of Section
5 132.052.

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

12 (d) Career [~~Proprietary~~] schools and colleges domiciled or
13 having their principal place of business outside of this state that
14 engage representatives to canvass, solicit, or contract with any
15 person within this state, are subject to the requirements for
16 registration of representatives.

17 SECTION 7.27. Section 132.060, Education Code, is amended
18 to read as follows:

19 Sec. 132.060. BOND REQUIREMENTS. (a) Before a certificate
20 of approval is issued under this chapter, a bond shall be provided
21 by the career [~~proprietary~~] school or college for the period during
22 which the certificate of approval is issued, and the obligation of
23 the bond shall be that neither this chapter nor any rule adopted
24 pursuant thereto shall be violated by the school or college or any
25 of its officers, agents, or employees. The bond shall be in the
26 penal sum of \$5,000 or a multiple of \$5,000 that is not greater than
27 \$35,000 for a certificate of approval issued for a period that

1 begins in the fiscal year ending August 31, 2002, and \$50,000 for a
2 certificate of approval issued for a period that begins on or after
3 September 1, 2002. The commission shall determine the amount based
4 on the evidence the school or college submits of its projected
5 maximum total unearned tuition during the period of the certificate
6 of approval. The bond shall be a corporate surety bond issued by a
7 company authorized to do business in this state, conditioned that
8 the parties thereto shall pay all damages or expenses that the state
9 or any governmental subdivision thereof or any student or potential
10 student may sustain resulting from a violation. The bond shall be
11 to the state to be used only for payment of a tuition refund due to a
12 student or potential student. The bond shall be filed with the
13 commission and shall be in such form as shall be approved by the
14 commission.

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

21 (c) Career [~~Proprietary~~] schools and colleges domiciled or
22 having their principal place of business outside of this state that
23 engage representatives to canvass, solicit, or contract with any
24 person within this state are subject to the bond requirements of
25 Subsection (a).

26 (d) The commission, for good cause shown, may waive and
27 suspend the requirements set forth in Subsections (a) and (b) with

1 respect to career [~~proprietary~~] schools and colleges operating
2 wholly or in part under a federal grant where no tuition fee is
3 charged to the student.

4 SECTION 7.28. Section 132.062, Education Code, is amended
5 to read as follows:

6 Sec. 132.062. WITHHOLDING RECORDS. A career [~~proprietary~~]
7 school or college may withhold a student's transcript or
8 certificate of completion of training until the student has
9 fulfilled the student's financial obligation to the school or
10 college.

11 SECTION 7.29. Section 132.063, Education Code, is amended
12 to read as follows:

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

16 SECTION 7.30. Section 132.064, Education Code, is amended
17 to read as follows:

18 Sec. 132.064. NONQUALIFICATION AS SMALL CAREER
19 [~~PROPRIETARY~~] SCHOOL AND COLLEGE. (a) A career [~~proprietary~~]
20 school or college operating as a small career [~~proprietary~~] school
21 or college but that has an annual gross income from tuition and fees
22 that exceeds \$100,000 (other than a test preparation school
23 described by Section 132.001(10)(B) or (C)) that intends to receive
24 a payment from federal funds under 20 U.S.C. Section 1070 et seq. or
25 intends to receive prepayment of tuition, fees, or other charges
26 from federal or state funds shall send written notice to the
27 commission. The notice must be sent not later than the following

1 date, as applicable:

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

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

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

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

17 (c) A career [~~proprietary~~] school or college that no longer
18 qualifies as a small career [~~proprietary~~] school or college shall
19 submit to the commission an amount of money equal to the difference
20 between the fee for the small career [~~proprietary~~] school or
21 college certificate of approval submitted by the school or college
22 and the fee that the school or college would be required to submit
23 after its qualifications as a small career [~~proprietary~~] school or
24 college cease.

25 (d) The authority of a career [~~proprietary~~] school or
26 college to operate under a small career [~~proprietary~~] school or
27 college certificate of approval terminates on the final

1 determination of issuance or denial of an initial certificate of
2 approval. If a school or college fails to file a complete
3 application within the period required by Subsection (b), the
4 school or college, as a condition of issuance, must pay a late fee
5 in an amount established by commission rule of at least \$100.

6 SECTION 7.31. Sections 132.101(a) and (c), Education Code,
7 are amended to read as follows:

8 (a) Should the applicant be dissatisfied with the denial of
9 a certificate of approval by the commission, the applicant has the
10 right to appeal the decision of the commission and request a hearing
11 with the commissioners [~~commission~~] or a hearing officer appointed
12 by the commission within 15 days after receipt of notice. Upon
13 receipt of the request for a hearing, the commission shall set a
14 time and place for the hearing and then send notice to the school of
15 the time and place.

16 (c) At the hearing, an applicant may appear in person or by
17 counsel and present evidence to the commissioners [~~commission~~] or a
18 hearing officer appointed by the commission in support of the
19 granting of the permit specified herein. All interested persons
20 may also appear and present oral and documentary evidence to the
21 commissioners [~~commission~~] or a hearing officer appointed by the
22 commission concerning the issuance of a certificate of approval to
23 the applicant school.

24 SECTION 7.32. Section 132.102(c), Education Code, is
25 amended to read as follows:

26 (c) On the filing of the lawsuit, citation shall be served
27 on the commission. The commission shall prepare a complete record

1 of all proceedings had before the commissioners [~~commission~~] or
2 hearing examiner and shall certify a copy of the proceedings to the
3 court. Trial before the court shall be on the basis of the record
4 made before the commissioners [~~commission~~] or hearing examiner, and
5 the court shall make its decision based on the record. The
6 commission's decision shall be affirmed by the court if the court
7 finds substantial evidence in the record to justify the decision,
8 unless the court finds the order to be:

- 9 (1) arbitrary and capricious;
- 10 (2) in violation of the constitution or laws of this
11 state; or
- 12 (3) in violation of rules adopted [~~promulgated~~] by the
13 commissioners under [~~commission pursuant to~~] this chapter.

14 SECTION 7.33. Section 132.151, Education Code, is amended
15 to read as follows:

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

- 17 (1) operate a career [~~proprietary~~] school or college
18 without a certificate of approval issued by the commission;
- 19 (2) solicit prospective students for or on behalf of a
20 career [~~proprietary~~] school or college without being registered as
21 a representative of the career [~~proprietary~~] school or college as
22 required by this chapter;
- 23 (3) accept contracts or enrollment applications from a
24 representative who is not bonded as required by this chapter;
- 25 (4) utilize advertising designed to mislead or deceive
26 prospective students;
- 27 (5) fail to notify the commission of the

1 discontinuance of the operation of any career [~~proprietary~~] school
2 or college within 72 hours of cessation of classes and make
3 available accurate records as required by this chapter;

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

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

12 (8) violate any provision of this chapter.

13 SECTION 7.34. Section 132.153, Education Code, is amended
14 to read as follows:

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

21 (1) the use of an advertising medium;

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

23 (3) advertisement under a trade name.

24 SECTION 7.35. Section 132.154(a), Education Code, is
25 amended to read as follows:

26 (a) Whenever the commission has probable cause to believe
27 that any career [~~proprietary~~] school or college has committed any

1 acts that would be in violation of this chapter, the commission
2 shall apply for an injunction restraining the commission of such
3 acts.

4 SECTION 7.36. Section 132.156, Education Code, is amended
5 to read as follows:

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

- 10 (1) order a peer review of the school or college; or
11 (2) suspend the admission of students to the school or
12 college.

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

22 SECTION 7.37. Sections 132.157(a), (b), (c), and (d),
23 Education Code, are amended to read as follows:

24 (a) If a career [~~proprietary~~] school or college fails to
25 timely comply with the requirements of Section 132.064, in addition
26 to any other penalties authorized by law, the commission may assess
27 a penalty in an amount not greater than two times the amount that

1 the school or college would have paid in fees and other charges if
2 the school or college had complied with the requirements of Section
3 132.064 or may assess a penalty in the amount of the tuition or fee
4 charge to any students whose tuition or fees were contracted to be
5 funded by a prepaid federal or state source.

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

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

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

23 SECTION 7.38. Sections 132.201(a), (c), (d), (e), (f), (h),
24 and (i), Education Code, are amended to read as follows:

25 (a) Certificate and registration fees, except those charged
26 pursuant to Subsection (d), shall be collected by the commission.
27 Each fee shall be in an amount set by the commission in an amount not

1 to exceed 150 percent of each fee in the following schedule:

2 (1) the initial fee for a career [~~proprietary~~] school
3 or college:

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

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

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

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

13 (B) \$500;

14 (3) the initial registration fee for a representative
15 is \$60;

16 (4) the annual renewal fee for a representative is
17 \$30;

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

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

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

26 (8) the application fee for an additional course is
27 \$150, except for seminar and workshop courses, for which the fee is

1 \$25;

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

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

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

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

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

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

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

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

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

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

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

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

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

1 SECTION 7.39. Section 52.013(b), Government Code, is
2 amended to read as follows:

3 (b) The board may:

4 (1) appoint any necessary or proper subcommittee;

5 (2) hire necessary employees;

6 (3) pay all reasonable expenses from available funds;

7 (4) approve curriculum for court reporter career
8 ~~[proprietary]~~ schools and colleges as provided by Section 132.055,
9 Education Code;

10 (5) approve court reporter programs in technical
11 institutes and public community colleges for purposes of
12 certification under Section 61.051, Education Code; and

13 (6) approve continuing professional education courses
14 for persons certified as court reporters.

15 SECTION 7.40. Section 305.002(3), Labor Code, is amended to
16 read as follows:

17 (3) "Eligible institution" means a career
18 ~~[proprietary]~~ school or college in this state that:

19 (A) holds a certificate of approval under Chapter
20 132, Education Code; and

21 (B) is approved by the commission under Section
22 305.023 for its students to participate in the grant program
23 established under this chapter.

24 SECTION 7.41. Section 305.023, Labor Code, is amended to
25 read as follows:

26 Sec. 305.023. APPROVAL OF INSTITUTIONS. The commission
27 shall approve a career ~~[proprietary]~~ school or college for its

1 students to participate in the grant program established under this
2 chapter if the school or college:

3 (1) has been accredited for not less than five years by
4 an accrediting agency recognized by the United States Department of
5 Education and maintains that accreditation;

6 (2) has held a certificate of approval under Chapter
7 132, Education Code, for at least five years; and

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

9 SECTION 7.42. Subsection E, Section 2.23A, Texas Non-Profit
10 Corporation Act (Article 1396-2.23A, Vernon's Texas Civil
11 Statutes), is amended to read as follows:

12 E. This article does not apply to:

13 (1) a corporation that solicits funds only from its
14 members;

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

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

27 (4) religious institutions which shall be limited to

1 churches, ecclesiastical or denominational organizations, or other
2 established physical places for worship at which religious services
3 are the primary activity and such activities are regularly
4 conducted;

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

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

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

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

17 ARTICLE 8. REPEALER

18 SECTION 8.01. The following laws are repealed:

19 (1) Section 201.002, Labor Code;

20 (2) Section 301.006, Labor Code, as added by Section
21 5.82(a), Chapter 76, Acts of the 74th Legislature, Regular Session,
22 1995; and

23 (3) Section 302.005(k), 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. Section 33.902(d), Education Code, is amended
13 to read as follows:

14 (d) The Work and Family Policies Clearinghouse may
15 distribute money appropriated by the legislature to any school
16 district for the purpose of implementing school-age child care
17 before and after the school day and during school holidays and
18 vacations for a school district's school-age students. Eligible
19 use of funds shall include planning, development, establishment,
20 expansion, or improvement of child care services and reasonable
21 start-up costs. The clearinghouse may distribute money to pay fees
22 charged for providing services to students who are considered to be
23 at risk of dropping out of school under Section 29.081. The Texas
24 Workforce Commission shall [~~by rule~~] establish, and the Texas
25 workforce commissioners shall by rule adopt, procedures and
26 eligibility requirements for distributing this money to school
27 districts.

1 SECTION 9.03. Section 133.001, Education Code, is amended
2 by amending Subdivision (5) and adding Subdivision (7) to read as
3 follows:

4 (5) "Commission" means the Texas Workforce
5 ~~[Employment]~~ Commission and has the meaning assigned to
6 "commission" by Section 301.001, Labor Code.

7 (7) "Commissioners" has the meaning assigned by
8 Section 301.001, Labor Code.

9 SECTION 9.04. Section 133.007, Education Code, is amended
10 to read as follows:

11 Sec. 133.007. RULES. The commissioners ~~[commission]~~ shall
12 promulgate rules necessary to implement the provisions of this
13 chapter.

14 SECTION 9.05. Sections 501.095(a) and (d), Government Code,
15 are amended to read as follows:

16 (a) The department and the Texas Workforce ~~[Employment]~~
17 Commission shall develop, and the department and the Texas
18 workforce commissioners shall by rule adopt, a memorandum of
19 understanding that establishes their respective responsibilities
20 to establish a continuity of care program for inmates with a history
21 of chronic unemployment.

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

24 SECTION 9.06. Section 501.097(a), Government Code, is
25 amended to read as follows:

26 (a) The department and the Texas Workforce Commission shall
27 develop, and the department and the Texas workforce commissioners

1 shall by rule adopt, a memorandum of understanding that establishes
2 their respective responsibilities for providing inmates who are
3 released into the community on parole or other conditional release
4 with a network of centers designed to provide education,
5 employment, and other support services based on a "one stop for
6 service" approach.

7 SECTION 9.07. Section 531.045(b), Government Code, is
8 amended to read as follows:

9 (b) The task force is composed of:

10 (1) a representative of:

11 (A) the attorney general's office, appointed by
12 the attorney general;

13 (B) the comptroller's office, appointed by the
14 comptroller;

15 (C) the commission, appointed by the
16 commissioner;

17 (D) the Texas Department of Health, appointed by
18 the commissioner of public health;

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

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

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

25 (2) two representatives of each of the following
26 groups, appointed by the comptroller:

27 (A) retailers who maintain electronic benefits

1 transfer point-of-sale equipment;

2 (B) banks or owners of automatic teller machines;

3 and

4 (C) consumer or client advocacy organizations.

5 SECTION 9.08. Section 572.003(c), Government Code, is
6 amended to read as follows:

7 (c) The term means a member of:

8 (1) the Public Utility Commission of Texas;

9 (2) the Texas Department of Economic Development
10 [~~Commerce~~];

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

13 (4) the Texas Alcoholic Beverage Commission;

14 (5) The Finance Commission of Texas;

15 (6) the Texas Building and Procurement [~~General~~
16 ~~Services~~] Commission;

17 (7) the Texas Board of Criminal Justice;

18 (8) the board of trustees of the Employees Retirement
19 System of Texas;

20 (9) the Texas Transportation Commission;

21 (10) the Texas Workers' Compensation Commission;

22 (11) the Texas Department [~~State Board~~] of Insurance;

23 (12) the Parks and Wildlife Commission;

24 (13) the Public Safety Commission;

25 (14) the Texas Ethics Commission;

26 (15) the State Securities Board;

27 (16) the Texas Water Development Board;

1 (17) the governing board of a public senior college or
2 university as defined by Section 61.003, Education Code, or of The
3 University of Texas Southwestern Medical Center at Dallas, The
4 University of Texas Medical Branch at Galveston, The University of
5 Texas Health Science Center at Houston, The University of Texas
6 Health Science Center at San Antonio, The University of Texas
7 System Cancer Center, The University of Texas Health Science Center
8 at Tyler, University of North Texas Health Science Center at Fort
9 Worth, Texas Tech University Health Sciences Center, Texas State
10 Technical College--Harlingen, Texas State Technical
11 College--Marshall, Texas State Technical College--Sweetwater, or
12 Texas State Technical College--Waco;

13 (18) the Texas Higher Education Coordinating Board;

14 (19) the Texas workforce commissioners [~~Employment~~
15 ~~Commission~~];

16 (20) the State Banking Board;

17 (21) the board of trustees of the Teacher Retirement
18 System of Texas;

19 (22) the Credit Union Commission;

20 (23) the School Land Board;

21 (24) the board of the Texas Department of Housing and
22 Community Affairs;

23 (25) the Texas Racing Commission;

24 (26) the State Board of Dental Examiners;

25 (27) [~~the Texas Board of Licensure for Nursing Home~~
26 ~~Administrators~~;

27 [~~(28)~~] the Texas State Board of Medical Examiners;

- 1 (28) [~~(29)~~] the Board of Pardons and Paroles;
- 2 (29) [~~(30)~~] the Texas State Board of Pharmacy;
- 3 (30) [~~(31)~~] the Department of Information Resources
- 4 governing board;
- 5 (31) [~~(32)~~] the Motor Vehicle Board;
- 6 (32) [~~(33)~~] the Texas Real Estate Commission;
- 7 (33) [~~(34)~~] the board of directors of the State Bar of
- 8 Texas;
- 9 (34) [~~(35)~~] the bond review board;
- 10 (35) [~~(36)~~] the Texas Board of Health;
- 11 (36) [~~(37)~~] the Texas Board of Mental Health and
- 12 Mental Retardation;
- 13 (37) [~~(38)~~] the Texas Board on Aging;
- 14 (38) [~~(39)~~] the Texas Board of Human Services;
- 15 (39) [~~(40)~~] the Texas Funeral Service Commission;
- 16 (40) [~~(41)~~] the board of directors of a river
- 17 authority created under the Texas Constitution or a statute of this
- 18 state; or
- 19 (41) [~~(42)~~] the Texas Lottery Commission.

20 SECTION 9.09. Section 656.001, Government Code, is amended

21 to read as follows:

22 Sec. 656.001. STATE AGENCY EMPLOYMENT OPENINGS. Any

23 agency, board, bureau, commission, committee, council, court,

24 department, institution, or office in the executive or judicial

25 branch of state government that has an employment opening for which

26 persons from outside the agency will be considered shall list the

27 opening with the Texas Workforce [~~Employment~~] Commission.

1 SECTION 9.10. Section 656.021(1), Government Code, is
2 amended to read as follows:

3 (1) "Commission" means the Texas Workforce
4 ~~[Employment]~~ Commission and has the meaning assigned to
5 "commission" by Section 301.001, Labor Code.

6 SECTION 9.11. Section 657.009, Government Code, is amended
7 to read as follows:

8 Sec. 657.009. PUBLIC ENTITIES TO LIST POSITIONS WITH TEXAS
9 WORKFORCE ~~[EMPLOYMENT]~~ COMMISSION. (a) A public entity shall
10 provide to the Texas Workforce ~~[Employment]~~ Commission, under rules
11 adopted under this section by the Texas workforce commissioners
12 ~~[commission]~~, information regarding an open position that is
13 subject to the hiring preference required by this chapter.

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

17 (c) To promote the purposes of this chapter, the Texas
18 workforce commissioners ~~[Employment Commission]~~ shall adopt rules
19 under this section that facilitate the exchange of employment
20 information between public entities and individuals entitled to a
21 preference under this chapter.

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

24 SECTION 9.12. Section 772.0031(a), Government Code, is
25 amended to read as follows:

26 (a) The Human Resource Task Force is composed of a
27 representative of:

- 1 (1) the governor's office, appointed by the governor;
- 2 (2) the state auditor's office, appointed by the state
3 auditor;
- 4 (3) the comptroller's office, appointed by the
5 comptroller;
- 6 (4) the attorney general's office, appointed by the
7 attorney general;
- 8 (5) the Commission on Human Rights, appointed by the
9 presiding officer of that agency;
- 10 (6) the Employees Retirement System of Texas,
11 appointed by the presiding officer of the board of trustees of that
12 agency;
- 13 (7) the Texas Workforce Commission, appointed by the
14 executive director [~~presiding officer~~] of that agency;
- 15 (8) the Texas Workers' Compensation Commission,
16 appointed by the presiding officer of that agency;
- 17 (9) the Legislative Budget Board, appointed by the
18 presiding officer of the board;
- 19 (10) the State Agency Coordinating Council, appointed
20 by the presiding officer of that entity;
- 21 (11) the Texas Small State Agency Task Force,
22 appointed by the presiding officer of that entity;
- 23 (12) the Texas State Personnel Administrators
24 Association, appointed by the presiding officer of that entity; and
- 25 (13) each eligible state employee organization
26 certified by the comptroller under Section 403.0165, who must be
27 the chief elected representative of the organization.

1 SECTION 9.13. Section 2162.051(a), Government Code, is
2 amended to read as follows:

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

5 (1) the governor;

6 (2) the lieutenant governor;

7 (3) the comptroller;

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

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

10 (6) the [~~commissioner of the~~] Texas workforce
11 commissioner [~~Employment Commission~~] representing labor.

12 SECTION 9.14. Section 2308.253(a), Government Code, is
13 amended to read as follows:

14 (a) The chief elected officials in a workforce development
15 area may form, in accordance with rules established by the Texas
16 workforce commissioners [~~Workforce Commission~~], a local workforce
17 development board to:

18 (1) plan and oversee the delivery of workforce
19 training and services; and

20 (2) evaluate workforce development in the workforce
21 development area.

22 SECTION 9.15. Section 31.0066(a), Human Resources Code, is
23 amended to read as follows:

24 (a) The department, the Texas workforce commissioners
25 [~~Workforce Commission~~], and the Health and Human Services
26 Commission shall jointly adopt rules prescribing circumstances
27 that constitute a hardship for purposes of exempting a recipient of

1 financial assistance from the application of time limits imposed by
2 federal law on the receipt of benefits.

3 SECTION 9.16. Section 31.0128, Human Resources Code, is
4 amended by amending Subsections (a) and (b) and adding Subsection
5 (b-1) to read as follows:

6 (a) The department and the Texas Workforce Commission shall
7 jointly develop, and the department and the Texas workforce
8 commissioners shall adopt, a memorandum of understanding, subject
9 to the approval of the Health and Human Services Commission. The
10 memorandum of understanding must establish guidelines for a
11 coordinated interagency case management plan to:

12 (1) identify each recipient of financial assistance
13 who has, in comparison to other recipients, higher levels of
14 barriers to employment; and

15 (2) provide coordinated services that address those
16 barriers to assist the recipient in finding and retaining
17 employment.

18 (b) The department and the Texas Workforce Commission
19 shall~~+~~

20 [~~1~~] jointly develop, and the department and the
21 Texas workforce commissioners by rule shall jointly adopt, a
22 memorandum of understanding, subject to the approval of the Health
23 and Human Services Commission, that establishes a coordinated
24 interagency case management plan consistent with the guidelines
25 established under Subsection (a).

26 (b-1) Using~~+~~~~and~~

27 [~~2~~ ~~using~~] existing resources, the department and the

1 Texas workforce commissioners by rule shall implement the plan to
2 the maximum extent possible through local department and commission
3 offices in local workforce development areas in which a local
4 workforce development board is not established.

5 SECTION 9.17. Section 31.0322(a), Human Resource Code, is
6 amended to read as follows:

7 (a) The department, the Texas workforce commissioners
8 [~~Workforce Commission~~], and the Title IV-D agency by rule shall
9 adopt procedures under which requirements relating to financial
10 assistance and related services, including time limits, child
11 support enforcement, paternity establishment, work activity, and
12 residency, may be waived or modified for an individual who is a
13 victim of family violence if application of the requirements would:

14 (1) adversely affect the individual's ability to
15 attain financial independence;

16 (2) make it more difficult for the individual to
17 escape family violence; or

18 (3) place the individual at greater risk for
19 additional family violence.

20 SECTION 9.18. Section 44.002(a), Human Resources Code, is
21 amended to read as follows:

22 (a) The Texas workforce commissioners [~~Workforce~~
23 ~~Commission~~] shall promulgate rules to carry out the administrative
24 provisions of the program consistent with federal law and
25 regulations.

26 SECTION 9.19. Section 115.002(c), Human Resources Code, is
27 amended to read as follows:

1 (c) The ex officio members are:

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

4 (2) the commissioner of the Texas Rehabilitation
5 Commission;

6 (3) the executive director of the Texas Commission for
7 the Blind;

8 (4) the executive director of the Texas Commission for
9 the Deaf and Hard of Hearing; and

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

13 SECTION 9.20. Section 51.002, Labor Code, is amended to
14 read as follows:

15 Sec. 51.002. DEFINITIONS. In this chapter:

16 (1) "Child" means an individual under 18 years of age.

17 (2) "Commission" means the Texas Workforce
18 [~~Employment~~] Commission and has the meaning assigned to
19 "commission" by Section 301.001.

20 (3) "Commissioners" has the meaning assigned by
21 Section 301.001.

22 SECTION 9.21. Section 51.003(c), Labor Code, is amended to
23 read as follows:

24 (c) For the purposes of Subsection (a)(6), the
25 commissioners [~~commission~~] by rule may define nonhazardous casual
26 employment that the commission determines is dangerous to the
27 safety, health, or well-being of a child.

1 SECTION 9.22. Section 51.012, Labor Code, is amended to
2 read as follows:

3 Sec. 51.012. PERFORMER EXEMPTION. The commissioners
4 [~~commission~~] by rule may authorize the employment of children under
5 14 years of age as performers in a motion picture or a theatrical,
6 radio, or television production.

7 SECTION 9.23. Section 51.013(d), Labor Code, is amended to
8 read as follows:

9 (d) The commissioners [~~commission~~] may adopt rules for
10 determining whether hardships exist. If, on the application of a
11 child, the commission determines that a hardship exists for that
12 child, this section does not apply to that child.

13 SECTION 9.24. Sections 51.014(a) and (b), Labor Code, are
14 amended to read as follows:

15 (a) The commissioners [~~commission~~] by rule shall declare an
16 occupation to be hazardous if:

17 (1) the occupation has been declared to be hazardous
18 by an agency of the federal government; and

19 (2) the commission determines that the occupation is
20 particularly hazardous for the employment of children.

21 (b) The commissioners [~~commission~~] by rule may restrict the
22 employment of children 14 years of age or older in hazardous
23 occupations.

24 SECTION 9.25. Section 51.0145(d), Labor Code, is amended to
25 read as follows:

26 (d) The commissioners [~~commission~~] may make additional
27 requirements by rule for a person employing a child under this

1 section to protect the safety, health, or well-being of the child.

2 SECTION 9.26. Section 51.015(b), Labor Code, is amended to
3 read as follows:

4 (b) The commissioners [~~commission~~] shall adopt rules
5 consistent with this section.

6 SECTION 9.27. Section 51.023, Labor Code, is amended to
7 read as follows:

8 Sec. 51.023. RULEMAKING. The commissioners [~~commission~~]
9 may adopt rules necessary to promote the purpose of this chapter but
10 may not adopt a rule permitting the employment of a child under 14
11 years of age unless expressly authorized by this chapter.

12 SECTION 9.28. Sections 51.024(b) and (c), Labor Code, are
13 amended to read as follows:

14 (b) In the discharge of the duties imposed by this chapter,
15 a Texas workforce commissioner [~~member of the commission~~] or an
16 authorized representative of the commission may administer oaths
17 and affirmations, take depositions, certify official acts, and
18 issue subpoenas to compel the attendance of witnesses who may be
19 found within 100 miles of the relevant event and the production of
20 books, papers, correspondence, memoranda, or other records
21 considered necessary as evidence in the administration of this
22 chapter. Notwithstanding Chapter 152 or 154, Local Government
23 Code, or any other law of this state, the commission shall pay the
24 fee of a sheriff or constable for serving a subpoena under this
25 subsection from the administrative funds of the commission, and the
26 comptroller shall issue a warrant for that fee as directed by the
27 commission.

1 (c) In the case of contumacy or other refusal to obey a
 2 subpoena issued by [~~a member of~~] the commissioners [~~commission~~] or
 3 an authorized representative of the commission, a county court or
 4 district court within the jurisdiction of which the inquiry is
 5 conducted or the person guilty of contumacy or refusal to obey is
 6 found, resides, or transacts business has jurisdiction on
 7 application by the commission or its representative to issue to the
 8 person an order requiring the person to appear before [~~a~~
 9 ~~commissioner,~~] the commissioners [~~commission,~~] or an authorized
 10 representative of the commission to produce evidence or give
 11 testimony regarding the matter under investigation. Failure to
 12 obey the court order may be punished by the court as contempt.

13 SECTION 9.29. Section 61.001, Labor Code, is amended by
 14 amending Subdivision (1) and adding Subdivision (1-a) to read as
 15 follows:

16 (1) "Commission" means the Texas Workforce
 17 [~~Employment~~] Commission and has the meaning assigned to
 18 "commission" by Section 301.001, or the commission's [its]
 19 designee.

20 (1-a) "Commissioners" has the meaning assigned by
 21 Section 301.001.

22 SECTION 9.30. Section 61.002, Labor Code, is amended by
 23 amending Subsections (a) and (c) and adding Subsection (a-1) to
 24 read as follows:

25 (a) The commission shall[+]

26 [~~(1)~~] administer this chapter[~~, and~~

27 [~~(2) adopt rules as necessary to implement this~~

1 ~~chapter~~].

2 (a-1) The commissioners shall adopt rules as necessary to
3 implement this chapter.

4 (c) In the discharge of the duties imposed by this chapter,
5 any authorized representative [~~or member~~] of the commission may:

6 (1) administer an oath or affirmation;

7 (2) take a deposition;

8 (3) certify to an official act; and

9 (4) issue a subpoena to compel the attendance of a
10 witness and the production of books, papers, correspondence,
11 memoranda, and other records considered necessary as evidence in
12 the administration of this chapter.

13 SECTION 9.31. Section 61.005(a), Labor Code, is amended to
14 read as follows:

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

25 (1) produce evidence if so ordered; or

26 (2) testify regarding the matter under investigation
27 or in question.

1 SECTION 9.32. Section 62.002, Labor Code, is amended by
2 amending Subdivision (3) and adding Subdivision (3-a) to read as
3 follows:

4 (3) "Commission" means the Texas Workforce
5 ~~[Employment]~~ Commission and has the meaning assigned to
6 "commission" by Section 301.001.

7 (3-a) "Commissioners" has the meaning assigned by
8 Section 301.001.

9 SECTION 9.33. Section 62.107(c), Labor Code, is amended to
10 read as follows:

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

14 SECTION 9.34. Section 81.001, Labor Code, is amended by
15 amending Subdivision (2) and adding Subdivision (2-a) to read as
16 follows:

17 (2) "Commission" means the Texas Workforce
18 ~~[Employment]~~ Commission and has the meaning assigned to
19 "commission" by Section 301.001.

20 (2-a) "Commissioners" has the meaning assigned by
21 Section 301.001.

22 SECTION 9.35. Section 81.007, Labor Code, is amended to
23 read as follows:

24 Sec. 81.007. RULES. The commissioners ~~[commission]~~ by rule
25 may adopt procedures to implement functions under Sections 81.004,
26 81.005, and 81.006(b). In adopting rules under this section, the
27 commissioners ~~[commission]~~ shall consider the recommendations of

1 the clearinghouse staff.

2 SECTION 9.36. Section 201.011, Labor Code, is amended by
3 amending Subdivisions (6) and (8) and adding Subdivision (8-a) to
4 read as follows:

5 (6) "Calendar quarter" means a period of three
6 consecutive calendar months ending on:

7 (A) March 31, June 30, September 30, or December
8 31; or

9 (B) the dates prescribed by rule of the
10 commissioners [~~commission~~].

11 (8) "Commission" means the Texas Workforce
12 [~~Employment~~] Commission and has the meaning assigned to
13 "commission" by Section 301.001.

14 (8-a) "Commissioners" has the meaning assigned by
15 Section 301.001.

16 SECTION 9.37. Section 203.002(b), Labor Code, is amended to
17 read as follows:

18 (b) The comptroller shall issue warrants on the
19 compensation fund in accordance with rules adopted by the
20 commissioners [~~commission~~].

21 SECTION 9.38. Section 203.202(c), Labor Code, is amended to
22 read as follows:

23 (c) The commissioners [~~commission~~] by a resolution entered
24 in commissioners' [~~its~~] minutes may authorize to be charged against
25 the special administration fund any expenditure the commissioners
26 consider [~~commission considers~~] proper in the interest of good
27 administration of this subtitle if the resolution states that no

1 other funds are available for the expenditure.

2 SECTION 9.39. Section 204.002(b), Labor Code, is amended to
3 read as follows:

4 (b) The contribution shall be paid to the commission in
5 accordance with rules adopted by the commissioners [~~commission~~].

6 SECTION 9.40. Section 204.026(a), Labor Code, is amended to
7 read as follows:

8 (a) An employer may appeal an administrative determination
9 made under Section 204.025 after the employer has exhausted the
10 employer's administrative remedies, not including a motion for
11 rehearing, before the commissioners [~~commission~~]. An appeal must
12 be filed within the time prescribed by Sections 212.153 and 212.201
13 for [~~commission~~] decisions of the commissioners on benefits.

14 SECTION 9.41. Section 204.101, Labor Code, is amended to
15 read as follows:

16 Sec. 204.101. CONTRIBUTION FROM GOVERNMENTAL EMPLOYER. A
17 governmental employer shall pay a contribution in accordance with
18 this subchapter and rules adopted by the commissioners [~~commission~~]
19 on wages paid for employment during each year or portion of the year
20 in which the governmental employer is subject to this subtitle.

21 SECTION 9.42. Section 204.106(a), Labor Code, is amended to
22 read as follows:

23 (a) A governmental employer shall keep records and file
24 reports with the commission relating to individuals in its employ
25 as required by rules adopted by the commissioners [~~commission~~].

26 SECTION 9.43. Section 205.012, Labor Code, is amended to
27 read as follows:

1 Sec. 205.012. PAYMENT OF REIMBURSEMENT. A reimbursing
2 employer shall pay a reimbursement to the commission in accordance
3 with this chapter and rules adopted by the commissioners
4 [~~commission~~].

5 SECTION 9.44. Section 205.025, Labor Code, is amended to
6 read as follows:

7 Sec. 205.025. COMMISSION RULES. The commissioners
8 [~~commission~~] shall as necessary adopt rules on:

9 (1) an application for the establishment,
10 maintenance, and termination of a group account authorized by this
11 subchapter;

12 (2) the type of records to be kept and reports to be
13 submitted by a group of employers;

14 (3) the addition of a new member to a group;

15 (4) the withdrawal of an active member from a group;

16 and

17 (5) the determination of the amount of reimbursements
18 payable under this subchapter by members of a group and the time and
19 manner of those payments.

20 SECTION 9.45. Section 205.031(b), Labor Code, is amended to
21 read as follows:

22 (b) The amount of the bond shall be determined in accordance
23 with rules adopted by the commissioners [~~commission~~].

24 SECTION 9.46. Section 207.001, Labor Code, is amended to
25 read as follows:

26 Sec. 207.001. PAYMENT OF BENEFITS. Benefits are paid
27 through the commission in accordance with rules adopted by the

1 commissioners [~~commission~~] and are due and payable under this
2 subtitle only to the extent provided by this subtitle.

3 SECTION 9.47. Section 207.021(a), Labor Code, is amended to
4 read as follows:

5 (a) Except as provided by Chapter 215, an unemployed
6 individual is eligible to receive benefits for a benefit period if
7 the individual:

8 (1) has registered for work at an employment office
9 and has continued to report to the employment office as required by
10 rules adopted by the commissioners [~~commission~~];

11 (2) has made a claim for benefits under Section
12 208.001;

13 (3) is able to work;

14 (4) is available for work;

15 (5) for the individual's base period, has benefit wage
16 credits:

17 (A) in at least two calendar quarters; and

18 (B) in an amount not less than 37 times the
19 individual's benefit amount;

20 (6) after the beginning date of the individual's most
21 recent prior benefit year, if applicable, earned wages in an amount
22 equal to not less than six times the individual's benefit amount;

23 (7) has been totally or partially unemployed for a
24 waiting period of at least seven consecutive days; and

25 (8) participates in reemployment services, such as a
26 job search assistance service, if the individual has been
27 determined, according to a profiling system established by the

1 commission, to be likely to exhaust eligibility for regular
2 benefits and to need those services to obtain new employment,
3 unless:

4 (A) the individual has completed participation
5 in such a service; or

6 (B) there is reasonable cause, as determined by
7 the commission, for the individual's failure to participate in
8 those services.

9 SECTION 9.48. Section 207.022(c), Labor Code, is amended to
10 read as follows:

11 (c) Approval of training must be obtained as required by
12 rules adopted by the commissioners [~~commission~~].

13 SECTION 9.49. Section 208.001(a), Labor Code, is amended to
14 read as follows:

15 (a) Claims for benefits shall be made in accordance with
16 rules adopted by the commissioners [~~commission~~]. An unemployed
17 individual who does not have a current benefit year may file an
18 initial claim in accordance with commission rules.

19 SECTION 9.50. Section 210.002(c), Labor Code, is amended to
20 read as follows:

21 (c) An employer shall reimburse the compensation fund as
22 provided by rules adopted by the commissioners [~~commission~~].

23 SECTION 9.51. Section 212.001, Labor Code, is amended to
24 read as follows:

25 Sec. 212.001. PROCEDURES. The manner in which disputed
26 claims are presented, the reports on disputed claims required from
27 claimants, employers, or other persons, and the conduct of hearings

1 and appeals must be in accordance with rules adopted by the
2 commissioners [~~commission~~] for determining the rights of parties to
3 disputed claims.

4 SECTION 9.52. Section 212.004(b), Labor Code, is amended to
5 read as follows:

6 (b) Benefits shall be paid promptly in accordance with:

- 7 (1) a determination or redetermination of an examiner;
8 (2) a decision of an appeal tribunal;
9 (3) a decision of the commissioners [~~commission~~]; or
10 (4) a decision of a reviewing court.

11 SECTION 9.53. Sections 212.105(a) and (b), Labor Code, are
12 amended to read as follows:

13 (a) The commissioners [~~commission~~] may remove to the
14 commissioners [~~itself~~] or transfer to another appeal tribunal the
15 proceedings on a claim pending before an appeal tribunal.

16 (b) A quorum of the commissioners [~~commission~~] shall hear a
17 proceeding removed to the commissioners [~~commission~~] under
18 Subsection (a).

19 SECTION 9.54. Section 212.151, Labor Code, is amended to
20 read as follows:

21 Sec. 212.151. REVIEW OF APPEAL TRIBUNAL DECISION. The
22 commissioners [~~commission~~] may:

23 (1) on the commissioners' [~~its~~] own motion:

24 (A) affirm, modify, or set aside any decision of
25 an appeal tribunal on the basis of the evidence previously
26 submitted in the case; or

27 (B) direct the taking of additional evidence; or

1 (2) permit any of the parties to the decision to
2 initiate a further appeal before the commission.

3 SECTION 9.55. Section 212.153, Labor Code, is amended to
4 read as follows:

5 Sec. 212.153. FINALITY OF COMMISSION DECISION. A decision
6 of the commission becomes final 14 days after the date the decision
7 is mailed unless before that date:

8 (1) the commissioners [~~commission~~] by order reopen
9 [~~reopens~~] the appeal; or

10 (2) a party to the appeal files a written motion for
11 rehearing.

12 SECTION 9.56. Section 212.206(b), Labor Code, is amended to
13 read as follows:

14 (b) A petition to bring an action under this subchapter must
15 be served on:

16 (1) a commissioner [~~member of the commission~~]; or

17 (2) a person designated by the commissioners
18 [~~commission~~].

19 SECTION 9.57. Section 213.004(a), Labor Code, is amended to
20 read as follows:

21 (a) In a judicial proceeding in which the establishment or
22 collection of a contribution, penalty, or interest is sought
23 because an employer does not pay a contribution, a penalty, or
24 interest within the time and in the manner required by this subtitle
25 or by a rule adopted under this subtitle, the following are
26 admissible:

27 (1) a report filed in an office of the commission by

1 the employer or the employer's representative that shows the amount
2 of wages paid by the employer or the employer's representative for
3 which a contribution, a penalty, or interest has not been paid;

4 (2) a copy of a report described in Subdivision (1)
5 that is certified by a commissioner [~~member of the commission~~] or by
6 an employee designated for that purpose by the commissioners
7 [~~commission~~]; and

8 (3) an audit made by the commission or its
9 representative from the books of the employer that is signed and
10 sworn to by the representative as being made from the records of the
11 employer.

12 SECTION 9.58. Section 213.032(c), Labor Code, is amended to
13 read as follows:

14 (c) An employer aggrieved by the determination of the
15 commission as stated in a notice of assessment may file a petition
16 for judicial review of the assessment with a Travis County district
17 court not later than the 30th day after the date on which the notice
18 of assessment is served. A copy of the petition must be served on a
19 commissioner [~~member of the commission~~] or on a person designated
20 by the commissioners [~~commission~~] in the manner provided by law for
21 service of process on a defendant in a civil action in a district
22 court.

23 SECTION 9.59. Section 213.052(a), Labor Code, is amended to
24 read as follows:

25 (a) If an individual or employing unit appears to be
26 violating or threatening to violate this subtitle or any rule or
27 order of the commissioners [~~commission~~] adopted under this subtitle

1 relating to the collection of a contribution, a penalty, or
2 interest or to the filing of a report relating to employment, the
3 commission shall bring suit against the individual or employing
4 unit to restrain the violation. The court may grant a temporary or
5 permanent, prohibitory or mandatory injunction, including a
6 temporary restraining order, as warranted by the facts.

7 SECTION 9.60. Section 215.002(b), Labor Code, is amended to
8 read as follows:

9 (b) The commissioners [~~commission~~] may adopt rules and
10 establish procedures necessary to administer the shared work
11 program.

12 SECTION 9.61. Section 301.005, Labor Code, is amended to
13 read as follows:

14 Sec. 301.005. TERMS; VACANCY. (a) The commissioners
15 [~~Members of the commission~~] are appointed for staggered six-year
16 terms, with one commissioner's [~~member's~~] term expiring on February
17 1 of each odd-numbered year.

18 (b) A commissioner [~~member~~] appointed to fill a vacancy
19 shall hold office for the remainder of that term.

20 SECTION 9.62. Section 301.021(a), Labor Code, is amended to
21 read as follows:

22 (a) The commission may accept a donation of services, money,
23 or property that the commission determines furthers the lawful
24 objectives of the commission. The donation must be accepted in an
25 open meeting by a majority of the commissioners [~~voting members of~~
26 ~~the commission~~] and must be reported in the public records of the
27 commission with the name of the donor and the purpose of the

1 donation.

2 SECTION 9.63. Section 301.041(a), Labor Code, is amended to
3 read as follows:

4 (a) The commissioners [~~commission~~] shall appoint an
5 executive director to administer the daily operations of the
6 commission in compliance with federal law.

7 SECTION 9.64. Section 301.062, Labor Code, is amended to
8 read as follows:

9 Sec. 301.062. FINDINGS. Both the commissioners
10 [~~commission~~] and the executive director may make findings and
11 determine issues under this title as necessary to administer this
12 title.

13 SECTION 9.65. Section 301.063(b), Labor Code, is amended to
14 read as follows:

15 (b) In administering this title the commissioners
16 [~~commission~~] and executive director shall:

17 (1) cooperate with the secretary under the Social
18 Security Act (42 U.S.C. Section 301 et seq.) to the fullest extent
19 consistent with this title;

20 (2) make reports in the form and containing
21 information required by the secretary and comply with provisions
22 the secretary finds necessary to ensure that the reports are
23 correct and verified;

24 (3) comply with the regulations prescribed by the
25 secretary governing the expenditures of funds allotted and paid to
26 the state under Title III of the Social Security Act (42 U.S.C.
27 Section 501 et seq.) to assist in the administration of this title;

1 and

2 (4) cooperate with any official or agency of the
3 United States having powers or duties under the Wagner-Peyser Act
4 (29 U.S.C. Section 49 et seq.) and take all actions necessary to
5 secure to this state the benefits of that Act and necessary to
6 perform the commission's duties under Chapter 307.

7 SECTION 9.66. Section 301.0674(a), Labor Code, is amended
8 to read as follows:

9 (a) The commissioners [~~commission~~] by rule may establish
10 and implement a pilot program under which the commission may
11 provide or, through competitive grants, contract with other persons
12 to provide adult technology training for residents of the state
13 who:

14 (1) are first-generation citizens of the United
15 States; or

16 (2) are displaced workers as a result of the North
17 American Free Trade Agreement (NAFTA) or other changes in the state
18 economy.

19 SECTION 9.67. Sections 301.068(b) and (c), Labor Code, are
20 amended to read as follows:

21 (b) The commission [~~by rule~~] shall develop and implement,
22 and the commissioners shall adopt by rule, a pilot program under
23 which an individual development account is established for certain
24 low-income individuals who are employed by the public or private
25 sector. The commission shall contract with a nonprofit
26 organization through competitive proposals to establish and
27 administer the account in accordance with commission rules.

1 (c) In developing [~~adopting~~] rules to be adopted by the
2 commissioners under the pilot program, the commission shall:

3 (1) design the program in a manner that provides a
4 participant with an opportunity to accumulate assets and to
5 facilitate and mobilize savings;

6 (2) state the selection criteria for a nonprofit
7 organization to establish and administer accounts under the
8 program;

9 (3) establish procedures to receive requests for
10 proposals from qualifying nonprofit organizations;

11 (4) ensure that participation in the program is
12 limited to individuals who have a family income below 200 percent of
13 the poverty level according to the federal Office of Management and
14 Budget poverty index;

15 (5) provide that expenditures from a participant's
16 individual development account are limited to postsecondary
17 educational expenses for the adult account holder and dependent
18 children, housing expenses, including expenses of purchasing or
19 financing a home for the adult account holder, expenses of a
20 self-employment enterprise, and start-up business expenses for the
21 adult account holder; and

22 (6) establish the program in eight counties:

23 (A) two of which must have a population of
24 500,000 or more but less than one million;

25 (B) two of which must have a population of one
26 million or more but less than two million;

27 (C) two of which must have a population of two

1 million or more; and

2 (D) two of which must be primarily rural areas
3 that have poverty rates per capita exceeding 1-1/2 times the
4 statewide poverty rate per capita.

5 SECTION 9.68. Section 301.071(a), Labor Code, is amended to
6 read as follows:

7 (a) In discharging duties imposed under this title, an
8 appeal tribunal established under this title, an examiner or other
9 hearings officer [~~employed or~~] appointed by the commissioners
10 [~~commission~~] or the executive director, a commissioner [~~member of~~
11 ~~the commission~~], or a representative authorized by the commission
12 may:

- 13 (1) administer oaths;
14 (2) take depositions;
15 (3) certify to official acts; and
16 (4) issue subpoenas to compel the attendance of
17 witnesses and the production of books, papers, correspondence,
18 memoranda, and other records considered necessary as evidence in
19 connection with a disputed claim or the administration of this
20 title.

21 SECTION 9.69. Section 301.072(a), Labor Code, is amended to
22 read as follows:

23 (a) If a person is guilty of contumacy or refuses to obey a
24 subpoena issued by a commissioner [~~member of the commission~~] or an
25 authorized representative of the commission, a county or district
26 court, on application by the commission or its authorized
27 representative, may order the person to appear before a

1 commissioner [~~member of the commission~~], the commission, or its
2 authorized representative to produce evidence or give testimony
3 regarding the matter under investigation or in question. Only a
4 court within the jurisdiction where the [~~commission conducts the~~
5 inquiry is conducted or where the person is found, resides, or
6 transacts business may issue the order.

7 SECTION 9.70. Section 301.073(a), Labor Code, is amended to
8 read as follows:

9 (a) In any cause or proceeding before the commission, a
10 person is not excused from attending and testifying, from producing
11 books, papers, correspondence, memoranda, and other records, or
12 from obeying a subpoena of the commission, a commissioner [~~member~~
13 ~~of the commission~~], or a representative of the commission on the
14 ground that the testimony or evidence, documentary or otherwise,
15 may tend to incriminate the person or subject the person to a
16 penalty or forfeiture.

17 SECTION 9.71. Section 301.081(d), Labor Code, is amended to
18 read as follows:

19 (d) A person commits an offense if the person is an employee
20 or a commissioner [~~member of the commission~~] who violates any
21 provision of this section. An offense under this subsection is
22 punishable by a fine of not less than \$20 nor more than \$200,
23 confinement in jail for not more than 90 days, or both fine and
24 confinement.

25 SECTION 9.72. Section 301.082(b), Labor Code, is amended to
26 read as follows:

27 (b) The executive director shall charge a reasonable fee in

1 an amount set by the commissioners [~~commission~~] for a copy of a
2 record furnished under this section.

3 SECTION 9.73. Section 301.107(a), Labor Code, is amended to
4 read as follows:

5 (a) The commissioners [~~commission~~] shall adopt rules as
6 necessary to carry out the commissioners' [~~its~~] powers and duties
7 under this subchapter.

8 SECTION 9.74. The heading to Section 302.002, Labor Code,
9 is amended to read as follows:

10 Sec. 302.002. GENERAL WORKFORCE DEVELOPMENT POWERS AND
11 DUTIES OF COMMISSIONERS [~~COMMISSION~~] AND EXECUTIVE DIRECTOR.

12 SECTION 9.75. Sections 302.002(a), (b), (d), and (e), Labor
13 Code, are amended to read as follows:

14 (a) The executive director shall:

15 (1) to the extent feasible under federal law,
16 consolidate the administrative and programmatic functions of the
17 programs under the authority of the commission to achieve efficient
18 and effective delivery of services;

19 (2) administer each program and implement
20 corresponding federal and state legislation consolidated under the
21 authority of the commission under this chapter and other applicable
22 state law;

23 (3) determine the organization and methods of
24 procedure of the division in accordance with applicable state and
25 federal legislation;

26 (4) appoint and prescribe the duties of all officers,
27 administrators, accountants, attorneys, experts, and other

1 employees as necessary in the performance of the division's duties;

2 (5) delegate authority to persons appointed under this
3 section as the executive director considers reasonable and proper
4 for the effective administration of the division;

5 (6) bond any person who handles money or signs checks
6 for the division;

7 (7) implement workforce training and services
8 policies and programs, consistent with recommendations from the
9 council and as approved by the governor;

10 (8) serve as an advocate at the state and federal
11 levels for local workforce development boards;

12 (9) contract with local workforce development boards
13 for program planning and service delivery;

14 (10) provide training and professional development
15 services for division staff, local workforce development boards,
16 and the staff of those boards;

17 (11) support research and demonstration projects
18 designed to develop new programs and approaches to service
19 delivery;

20 (12) provide technical assistance and support to local
21 workforce development boards;

22 (13) prepare an annual agency performance report for
23 submission to the governor, the legislature, the commissioners
24 [~~commission~~], and the council;

25 (14) design and administer a statewide comprehensive
26 labor market information system;

27 (15) serve as the chair of the State Occupational

1 Information Coordinating Committee; and

2 (16) perform other functions and duties as may be
3 required by law or assigned by the commission.

4 (b) The executive director may make expenditures, enter
5 into contracts with public, private, and nonprofit organizations,
6 require reports, conduct investigations, and take other action the
7 executive director or the commissioners consider [~~commission~~
8 ~~considers~~] necessary or suitable to fulfill the division's
9 administrative duties.

10 (d) The commissioners [~~commission~~] shall adopt rules in
11 accordance with Chapter 2001, Government Code, as necessary for the
12 proper administration of the division.

13 (e) The executive director may obligate funds from the
14 skills development fund in a manner consistent with the rules
15 adopted by the commissioners [~~commission~~] for that program. The
16 executive director shall report to the governor, the legislature,
17 the commissioners [~~commission~~], and the council on a quarterly
18 basis regarding actions taken under this subsection.

19 SECTION 9.76. Sections 302.005(b) and (j), Labor Code, are
20 amended to read as follows:

21 (b) The commissioners [~~commission~~] shall cooperate with the
22 Department of Protective and Regulatory Services in the adoption of
23 rules under this section. The commissioners [~~commission~~] may not
24 adopt a rule under this section that conflicts with a rule of the
25 Department of Protective and Regulatory Services.

26 (j) The commissioners [~~commission~~] shall adopt rules that
27 establish eligibility criteria for a facility to participate in a

1 pilot program and provide requirements for implementation of the
2 pilot program.

3 SECTION 9.77. Section 302.006(g), Labor Code, is amended to
4 read as follows:

5 (g) The commissioners [~~commission~~] shall adopt rules
6 necessary to implement this section. The rules must include
7 provisions that:

8 (1) address the computation of the 18-month service
9 requirement prescribed by Subsection (c); and

10 (2) ensure that the commission may recover scholarship
11 money from a recipient who fails to comply with that service
12 requirement or any other requirement imposed by the commission.

13 SECTION 9.78. Section 302.009(a), Labor Code, as added by
14 Section 1, Chapter 466, Acts of the 77th Legislature, Regular
15 Session, 2001, is amended to read as follows:

16 (a) The commission [~~by rule~~] shall develop, and the
17 commissioners by rule shall adopt, a job placement incentive
18 program under which persons with whom local workforce development
19 boards contract for employment services under Chapter 2308,
20 Government Code, are provided incentives for placing recipients of
21 financial assistance participating in employment programs under
22 Chapter 31, Human Resources Code, in higher-wage jobs, as
23 determined by the commission.

24 SECTION 9.79. Section 302.010(a), Labor Code, is amended to
25 read as follows:

26 (a) The commission [~~by rule~~] shall develop, and the
27 commissioners by rule shall adopt, guidelines under which local

1 workforce development boards provide postemployment services to a
2 recipient of financial assistance participating in an employment
3 program under Chapter 31, Human Resources Code.

4 SECTION 9.80. Section 302.044, Labor Code, as added by
5 Chapter 299, Acts of the 77th Legislature, Regular Session, 2001,
6 is renumbered as Section 302.047 and amended to read as follows:

7 Sec. 302.047 [~~302.044~~]. FLEXIBILITY RATING SYSTEM FOR
8 COMMISSION DIRECTIVES. (a) The commission shall develop and
9 implement a flexibility rating system for directives sent by the
10 commission to local workforce development boards. A rating
11 assigned to a directive under the system shall indicate the degree
12 of flexibility that a local workforce development board has in
13 implementing the directive. The commission shall provide an
14 explanation of the ratings assigned under the system to each local
15 workforce development board.

16 (b) The commissioners [~~commission~~] shall adopt rules as
17 necessary to implement this section.

18 SECTION 9.81. Section 302.044, Labor Code, as added by
19 Section 2, Chapter 650, Acts of the 77th Legislature, Regular
20 Session, 2001, is amended to read as follows:

21 Sec. 302.044. OUTREACH ACTIVITIES. The commission shall
22 require that local workforce development boards participate in
23 outreach activities provided by the commission that are designed by
24 the commission to allow board members and employees to become more
25 proficient in the administration and operation of local workforce
26 development activities. The commissioners [~~commission~~] shall
27 adopt policies establishing the number of outreach activities in

1 which a board is required to participate.

2 SECTION 9.82. Section 302.045, Labor Code, is amended to
3 read as follows:

4 Sec. 302.045. SANCTIONS PLAN. The commissioners
5 [~~commission~~] shall adopt a detailed and understandable plan to be
6 used by local workforce development boards in the implementation of
7 the sanction process. The plan adopted under this section must
8 include:

9 (1) a requirement that the commission provide
10 technical assistance to the boards in avoiding or responding to
11 sanctions; and

12 (2) specific provisions regarding the time in which a
13 board is to be allowed to address concerns and improve the board's
14 performance.

15 SECTION 9.83. Section 302.046(a), Labor Code, is amended to
16 read as follows:

17 (a) The commissioners [~~commission~~] shall adopt a plan to
18 address the lack of service providers in specific local workforce
19 development areas.

20 SECTION 9.84. Section 305.002, Labor Code, is amended by
21 amending Subdivision (1) and adding Subdivision (1-a) to read as
22 follows:

23 (1) "Commission" means the Texas Workforce Commission
24 and has the meaning assigned to "commission" by Section 301.001.

25 (1-a) "Commissioners" has the meaning assigned by
26 Section 301.001.

27 SECTION 9.85. Section 305.026(b), Labor Code, is amended to

1 read as follows:

2 (b) To be eligible to receive a grant under this chapter, an
3 applicant must:

4 (1) be a Texas resident and meet the requirements to
5 qualify as a Texas resident under Subchapter B, Chapter 54,
6 Education Code, and the rules of the coordinating board for the
7 payment of resident tuition at a public institution of higher
8 education;

9 (2) be enrolled in a qualified education program at an
10 eligible institution for at least one-half of a full course load;

11 (3) be required to pay more tuition and required fees
12 than the amount required at a public technical institute and be
13 charged not less than the regular tuition and required fees paid by
14 other students enrolled at the eligible institution the person
15 attends;

16 (4) establish financial need and eligibility for
17 student financial assistance in accordance with procedures and
18 regulations of the United States Department of Education for
19 financial aid programs under Title IV, Higher Education Act of 1965
20 (20 U.S.C. Section 1070 et seq.), as amended;

21 (5) not be in default on a loan made under the Federal
22 Perkins Loan Program, Federal Family Education Loan Program, or
23 William D. Ford Federal Direct Loan Program;

24 (6) not owe a refund on a grant received under the
25 federal Pell Grant program or the federal Supplemental Education
26 Opportunity Grant program; and

27 (7) comply with any other requirements adopted by the

1 commissioners [~~commission~~] under this chapter.

2 SECTION 9.86. Section 305.028(a), Labor Code, is amended to
3 read as follows:

4 (a) The commissioners [~~commission~~] may adopt reasonable
5 rules to administer and enforce this chapter.

6 SECTION 9.87. Section 306.004(a), Labor Code, is amended to
7 read as follows:

8 (a) The department, the commissioners [~~commission~~], and the
9 Texas Youth Commission shall each adopt a memorandum of
10 understanding that establishes the respective responsibilities of
11 each agency and of the divisions within the department.

12 SECTION 9.88. Section 306.006(b), Labor Code, is amended to
13 read as follows:

14 (b) The project director shall:

15 (1) propose, for adoption by the commissioners
16 [~~commission~~], standards and guidelines for the operation of the
17 project;

18 (2) obtain information from appropriate state
19 agencies and offices affiliated with the project to determine any
20 necessary changes in the project;

21 (3) disseminate information statewide about the
22 project; and

23 (4) train commission staff to assist in the operation
24 of affiliated services.

25 SECTION 9.89. Section 306.007(b), Labor Code, is amended to
26 read as follows:

27 (b) The commissioners [~~commission~~] shall adopt a memorandum

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

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

17 SECTION 9.90. Section 308.005(a), Labor Code, is amended to
18 read as follows:

19 (a) The commissioners [~~commission~~] shall adopt rules as
20 necessary to implement the program, including establishing the
21 criteria for determining which persons described by Section
22 308.003(a) may be required to participate in the program.

23 SECTION 9.91. Section 309.004, Labor Code, is amended to
24 read as follows:

25 Sec. 309.004. RULEMAKING AUTHORITY. The commissioners
26 [~~commission~~] shall adopt rules to implement this chapter, including
27 rules to determine which recipients of financial assistance under

1 Chapter 31, Human Resources Code, are eligible to participate in
2 job-training programs developed with money from the fund.

3 SECTION 9.92. Section 310.008, Labor Code, is amended to
4 read as follows:

5 Sec. 310.008. RULES. The commissioners [~~commission~~] may
6 adopt rules necessary to implement this chapter.

7 SECTION 9.93. Section 311.004(a), Labor Code, is amended to
8 read as follows:

9 (a) The agency and the commissioners [~~commission~~] shall
10 adopt rules as necessary to administer each entity's duties under
11 this chapter. To the extent possible, the agency and the
12 commissioners [~~commission~~] shall cooperate with each other in
13 adopting rules so that all rules adopted under this chapter are
14 consistent and easily administered.

15 ARTICLE 10. EFFECTIVE DATE

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