

1-1 By: Nelson S.B. No. 280
1-2 (In the Senate - Filed March 10, 2003; March 17, 2003, read
1-3 first time and referred to Committee on Government Organization;
1-4 April 15, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; April 15, 2003,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 280 By: Armbrister

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

1-10 relating to the continuation and functions of the Texas Workforce
1-11 Commission.

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

1-13 ARTICLE 1. CONTINUATION OF COMMISSION; GUIDELINES REGARDING
1-14 FUNCTIONS OF COMMISSION AND STAFF

1-15 SECTION 1.01. Subchapter A, Chapter 301, Labor Code, is
1-16 amended by adding Section 301.0015 and amending Section 301.008 to
1-17 read as follows:

1-18 Sec. 301.0015. GUIDELINES REGARDING FUNCTIONS OF
1-19 COMMISSION AND STAFF. (a) In administering its functions under
1-20 this title or another law, the commission shall limit its
1-21 activities to:

1-22 (1) setting the general policies for the operation of
1-23 the commission and the commission staff, including policies that
1-24 clearly separate the policymaking responsibilities of the
1-25 commission and the management responsibilities of the executive
1-26 director and other commission staff;

1-27 (2) giving general direction to the executive director
1-28 and other commission staff regarding the implementation of the
1-29 commission's policies, and holding the executive director
1-30 accountable for implementing the policies;

1-31 (3) approving the commission's budget recommendation
1-32 to the legislature;

1-33 (4) reviewing under Subchapter D, Chapter 212, the
1-34 decision of an appeal tribunal regarding unemployment
1-35 compensation;

1-36 (5) adopting rules and making the general decisions
1-37 necessary to administer the commission's policies, including rules
1-38 necessary for the administration of this title and rules governing
1-39 required reports, procedures, and orders;

1-40 (6) responding to questions and comments that are
1-41 directed to the commission by the commission staff and that relate
1-42 to setting or clarifying commission policies or relate to other
1-43 matters of general interest to the commission; and

1-44 (7) commenting on matters of general interest to the
1-45 commission.

1-46 (b) In administering its functions under this title or
1-47 another law, the commission may not:

1-48 (1) direct the day-to-day operations of the executive
1-49 director or other commission staff; or

1-50 (2) establish the details for the implementation of
1-51 commission policies or direct the executive director or other
1-52 commission staff about those details.

1-53 Sec. 301.008. APPLICATION OF SUNSET ACT. The Texas
1-54 Workforce Commission is subject to Chapter 325, Government Code
1-55 (Texas Sunset Act). Unless continued in existence as provided by
1-56 that chapter, the commission is abolished September 1, 2009 [2003].

1-57 ARTICLE 2. MEMBERSHIP ON GOVERNING BODY OF COMMISSION

1-58 SECTION 2.01. Subsection (a), Section 301.002, Labor Code,
1-59 is amended to read as follows:

1-60 (a) The commission is composed of three members:

1-61 (1) one member who is [of whom shall be] a
1-62 representative of labor;

1-63 (2) one member who is [of whom shall be] a

2-1 representative of employers; and

2-2 (3) one member who is a representative of [whom shall
2-3 ~~represent]~~ the public.

2-4 SECTION 2.02. Section 301.003, Labor Code, is amended to
2-5 read as follows:

2-6 Sec. 301.003. MEMBER RESTRICTIONS. (a) In this section,
2-7 "Texas trade association" means a cooperative and voluntarily
2-8 joined statewide association of business or professional
2-9 competitors in this state designed to assist its members and its
2-10 industry or profession in dealing with mutual business or
2-11 professional problems and in promoting their common interest [A
2-12 ~~member of the commission may not engage in any other business,~~
2-13 ~~vocation, or employment during the member's term on the~~
2-14 ~~commission].~~

2-15 (b) A person may not serve as a member of the commission if
2-16 the person or the person's spouse:

2-17 (1) is employed by or participates in the management
2-18 of a business entity or other organization receiving money from the
2-19 commission;

2-20 (2) owns or controls, directly or indirectly, more
2-21 than a 10 percent interest in a business entity or other
2-22 organization receiving money from the commission; or

2-23 (3) is registered, certified, or licensed by a
2-24 regulatory agency in the field of career schools and colleges.

2-25 (c) ~~[(b)]~~ The public member of the commission or the
2-26 member's spouse may not be an officer, employee, or paid consultant
2-27 of a Texas trade association in the field of labor or business
2-28 ~~[labor-oriented or employer-oriented trade association while the~~
2-29 ~~member serves on the commission].~~

2-30 SECTION 2.03. Section 301.004, Labor Code, is amended to
2-31 read as follows:

2-32 Sec. 301.004. EFFECT OF LOBBYING ACTIVITY. A person ~~[who is~~
2-33 ~~required to register as a lobbyist under Chapter 305, Government~~
2-34 ~~Code,]~~ may not be ~~[serve as]~~ a member of the commission or act as the
2-35 general counsel to the commission if the person is required to
2-36 register as a lobbyist under Chapter 305, Government Code, because
2-37 of the person's activities for compensation on behalf of a
2-38 profession related to the operation of the commission [while so
2-39 ~~registered].~~ If the person ceases to engage in lobbying activity
2-40 and files a notice of termination as prescribed by Section 305.008,
2-41 Government Code, the person may serve as a member of the commission
2-42 or act as the general counsel to the commission.

2-43 SECTION 2.04. Subsection (a), Section 301.006, Labor Code,
2-44 as renumbered from Section 202.005, Labor Code, by Section 11.02,
2-45 Chapter 655, Acts of the 74th Legislature, Regular Session, 1995,
2-46 is amended to read as follows:

2-47 (a) The governor shall designate the chair of the commission
2-48 from among the members of the commission. The chair shall serve in
2-49 that capacity at the pleasure of the governor for a two-year term.
2-50 The governor may redesignate the same member to serve consecutive
2-51 terms.

2-52 SECTION 2.05. Section 301.007, Labor Code, is amended by
2-53 amending Subsection (a) and adding Subsection (c) to read as
2-54 follows:

2-55 (a) It is a ground for removal from the commission ~~[by~~
2-56 ~~impeachment]~~ that a member:

2-57 (1) during any 60-day period, is absent from each
2-58 commission meeting for which the member received at least 48 hours'
2-59 notice;

2-60 (2) does not have at the time of taking office the
2-61 qualifications required by Section 301.002 [is unable to discharge
2-62 the member's duties for the remainder of the term for which the
2-63 member was appointed because of illness or other disability]; [or]

2-64 (3) does not maintain during service as a member of the
2-65 commission the qualifications required by Section 301.002;

2-66 (4) is ineligible for membership on the commission
2-67 under Section 301.003 or 301.004;

2-68 (5) cannot, because of illness or disability,
2-69 discharge the member's duties for a substantial part of the member's

3-1 term; or

3-2 (6) is absent from more than half of the regularly
 3-3 scheduled meetings of the members that the member is eligible to
 3-4 attend during a calendar year without an excuse approved by a
 3-5 majority vote of the members [~~violates a prohibition established by~~
 3-6 Section 301.003 or 301.004].

3-7 (c) If the executive director has knowledge that a potential
 3-8 ground for removal exists, the executive director shall notify the
 3-9 chair of the potential ground. The chair shall then notify the
 3-10 governor and the attorney general that a potential ground for
 3-11 removal exists. If the potential ground for removal involves the
 3-12 chair, the executive director shall notify the next highest ranking
 3-13 member, who shall then notify the governor and the attorney general
 3-14 that a potential ground for removal exists.

3-15 SECTION 2.06. Subchapter A, Chapter 301, Labor Code, is
 3-16 amended by adding Section 301.0075 to read as follows:

3-17 Sec. 301.0075. MEMBER TRAINING. (a) A person who is
 3-18 appointed to and qualifies for office as a member of the commission
 3-19 may not vote, deliberate, or be counted as a member in attendance at
 3-20 a meeting of the members until the person completes a training
 3-21 program that complies with this section.

3-22 (b) The training program must provide the person with
 3-23 information regarding:

3-24 (1) the legislation that created the commission;
 3-25 (2) the programs operated by the commission;
 3-26 (3) the role and functions of the commission;
 3-27 (4) the rules of the commission, with an emphasis on
 3-28 the rules that relate to disciplinary and investigatory authority;
 3-29 (5) the current budget for the commission;
 3-30 (6) the results of the most recent formal audit of the
 3-31 commission;

3-32 (7) the requirements of:
 3-33 (A) the open meetings law, Chapter 551,
 3-34 Government Code; (B) the public information law, Chapter 552,
 3-35 Government Code; (C) the administrative procedure law, Chapter
 3-36 2001, Government Code; and
 3-37 (D) other laws relating to public officials,
 3-38 including conflict-of-interest laws; and
 3-39 (8) any applicable ethics policies adopted by the
 3-40 commission or the Texas Ethics Commission.

3-41 (c) A person appointed as a member of the commission is
 3-42 entitled to reimbursement, as provided by the General
 3-43 Appropriations Act, for the travel expenses incurred in attending
 3-44 the training program regardless of whether the attendance at the
 3-45 program occurs before or after the person qualifies for office.

3-46 SECTION 2.07. The changes in law made by this article in the
 3-47 prohibitions or qualifications applying to members of the Texas
 3-48 Workforce Commission do not affect the entitlement of a member
 3-49 serving immediately before September 1, 2003, to continue to serve
 3-50 and function as a member for the remainder of the member's term.
 3-51 Those changes in law apply only to a member appointed on or after
 3-52 September 1, 2003.

3-53 ARTICLE 3. POWERS AND DUTIES

3-54 SECTION 3.01. Section 301.023, Labor Code, is amended to
 3-55 read as follows:

3-56 Sec. 301.023. COMPLAINTS AGAINST COMMISSION. (a) The
 3-57 commission shall maintain a file on each written complaint filed
 3-58 with the commission. The file must include:

3-59 (1) the name of the person who filed the complaint;
 3-60 (2) the date the complaint is received by the
 3-61 commission;
 3-62 (3) the subject matter of the complaint;
 3-63 (4) the name of each person contacted in relation to
 3-64 the complaint;
 3-65 (5) a summary of the results of the review or
 3-66 investigation of the complaint; and
 3-67 (6) an explanation of the reason the file was closed,
 3-68
 3-69

4-1 if the commission closed the file without taking action other than
 4-2 to investigate the complaint ~~[keep an information file about each~~
 4-3 ~~complaint filed with the commission that relates to a service~~
 4-4 ~~provided by the commission].~~

4-5 (b) The commission shall provide to the person filing the
 4-6 complaint and to each person who is a subject of the complaint a
 4-7 copy of the commission's policies and procedures relating to
 4-8 complaint investigation and resolution.

4-9 (c) The commission, at least quarterly until final
 4-10 disposition of the complaint, shall notify the person filing the
 4-11 complaint and each person who is a subject of the complaint of the
 4-12 status of the investigation unless the notice would jeopardize an
 4-13 undercover investigation ~~[If a written complaint is filed with the~~
 4-14 ~~commission that relates to a service provided by the commission,~~
 4-15 ~~the commission, at least quarterly and until final disposition of~~
 4-16 ~~the complaint, shall notify the parties to the complaint of the~~
 4-17 ~~status of the complaint].~~

4-18 SECTION 3.02. Section 301.043, Labor Code, is amended to
 4-19 read as follows:

4-20 Sec. 301.043. STANDARDS OF CONDUCT INFORMATION. The
 4-21 executive director or the executive director's designee shall
 4-22 provide to the members of the commission and employees of the
 4-23 commission, as often as necessary, information regarding the
 4-24 requirements for office or employment under this chapter, including
 4-25 information regarding a person's ~~[their]~~ responsibilities under
 4-26 applicable laws relating to standards of conduct for state officers
 4-27 or employees.

4-28 SECTION 3.03. Section 301.045, Labor Code, is amended by
 4-29 amending Subsections (a) and (b) and adding Subsection (a-1) to
 4-30 read as follows:

4-31 (a) The executive director or the executive director's
 4-32 designee shall prepare and maintain a written policy statement that
 4-33 implements ~~[to ensure implementation of]~~ a program of equal
 4-34 employment opportunity to ensure that ~~[under which]~~ all personnel
 4-35 decisions ~~[transactions]~~ are made without regard to race, color,
 4-36 disability, sex, religion, age, or national origin.

4-37 (a-1) The policy statement must include:

4-38 (1) personnel policies, including policies relating
 4-39 to recruitment, evaluation, selection, ~~[appointment,]~~ training,
 4-40 and promotion of personnel, that show the intent of the commission
 4-41 to avoid the unlawful employment practices described by ~~[are in~~
 4-42 ~~compliance with]~~ Chapter 21; and

4-43 (2) an ~~[a comprehensive]~~ analysis of the extent to
 4-44 which the composition of the commission's personnel is in
 4-45 accordance with state and ~~[workforce that meets]~~ federal law and a
 4-46 description of ~~[and state guidelines,]~~

4-47 ~~[(3) procedures by which a determination can be made~~
 4-48 ~~of significant underuse in the commission's workforce of all~~
 4-49 ~~persons for whom federal or state guidelines encourage a more~~
 4-50 ~~equitable balance, and~~

4-51 ~~[(4)]~~ reasonable methods to achieve compliance with
 4-52 state and federal law ~~[to appropriately address those areas of~~
 4-53 ~~underuse].~~

4-54 (b) The ~~[A]~~ policy statement ~~[under Subsection (a)]~~ must:

4-55 (1) ~~[cover an annual period,]~~ be updated annually;

4-56 (2) ~~[]~~ be reviewed by the Commission on Human Rights
 4-57 for compliance with Subsection (a-1)(1); ~~[(a)]~~ and

4-58 (3) be filed with the governor's office.

4-59 SECTION 3.04. Subchapter C, Chapter 301, Labor Code, is
 4-60 amended by adding Sections 301.046 and 301.047 to read as follows:

4-61 Sec. 301.046. STATE EMPLOYEE INCENTIVE PROGRAM INFORMATION
 4-62 AND TRAINING. The executive director or the executive director's
 4-63 designee shall provide to commission employees information and
 4-64 training on the benefits and methods of participation in the state
 4-65 employee incentives program.

4-66 Sec. 301.047. COMMISSION EMPLOYEES ACCOUNTABLE TO
 4-67 EXECUTIVE DIRECTOR. In performing functions required or authorized
 4-68 by law, employees of the commission are directly accountable to the
 4-69 executive director.

5-1 SECTION 3.05. The heading to Section 301.061, Labor Code,
5-2 is amended to read as follows:

5-3 Sec. 301.061. GENERAL POWERS AND DUTIES OF COMMISSION AND
5-4 EXECUTIVE DIRECTOR.

5-5 SECTION 3.06. Subsections (a) and (b), Section 301.061,
5-6 Labor Code, are amended to read as follows:

5-7 (a) The commission shall provide the public with a
5-8 reasonable opportunity to appear before the commission and speak on
5-9 any issue under the jurisdiction of the commission [~~adopt rules as~~
5-10 ~~necessary for the administration of this title~~].

5-11 (b) The executive director shall:

5-12 (1) administer this title as provided by rules adopted
5-13 by the commission;

5-14 (2) manage:

5-15 (A) the administrative affairs of the commission
5-16 under the general supervision of the commission;

5-17 (B) the implementation of commission policies
5-18 set by the commission; and

5-19 (C) the daily operation of the commission;

5-20 (3) coordinate the activities of the commission staff
5-21 and hold commission staff accountable for the staff's performance
5-22 of its duties;

5-23 (4) organize the administrative sections and
5-24 divisions of the commission [~~determine the organization of the~~
5-25 ~~agency and methods of procedure of the agency in accordance with~~
5-26 ~~this title~~]; and

5-27 (5) [~~(3)~~] make expenditures necessary for the
5-28 operation of this title.

5-29 SECTION 3.07. Subchapter D, Chapter 301, Labor Code, is
5-30 amended by adding Sections 301.0681, 301.0682, and 301.069 to read
5-31 as follows:

5-32 Sec. 301.0681. POLICY ON TECHNOLOGICAL SOLUTIONS. The
5-33 commission shall develop and implement a policy requiring the
5-34 executive director and commission employees to research and propose
5-35 appropriate technological solutions to improve the commission's
5-36 ability to perform its functions. The technological solutions
5-37 must:

5-38 (1) ensure that:

5-39 (A) the public is able to easily find information
5-40 about the commission on the Internet; and

5-41 (B) persons who want to use the commission's
5-42 services are able to:

5-43 (i) interact with the commission through
5-44 the Internet; and

5-45 (ii) access any service that can be
5-46 provided effectively through the Internet;

5-47 (2) be cost-effective; and

5-48 (3) be developed through the commission's planning
5-49 processes.

5-50 Sec. 301.0682. NEGOTIATED RULEMAKING AND ALTERNATIVE
5-51 DISPUTE RESOLUTION POLICY. (a) The commission shall develop and
5-52 implement a policy to encourage the use of:

5-53 (1) negotiated rulemaking procedures under Chapter
5-54 2008, Government Code, for the adoption of the commission's rules;
5-55 and

5-56 (2) appropriate alternative dispute resolution
5-57 procedures under Chapter 2009, Government Code, to assist in the
5-58 resolution of internal and external disputes under the commission's
5-59 jurisdiction, other than proceedings conducted by the commission
5-60 under Title 2 and this title of this code that are not subject to
5-61 Subchapters C-H, Chapter 2001, Government Code.

5-62 (b) The commission's procedures relating to alternative
5-63 dispute resolution must conform, to the extent possible, to any
5-64 model guidelines issued by the State Office of Administrative
5-65 Hearings for the use of alternative dispute resolution by state
5-66 agencies.

5-67 (c) The commission shall designate a trained person to:

5-68 (1) coordinate the implementation of the policy
5-69 developed under Subsection (a);

6-1 (2) serve as a resource for any training needed to
 6-2 implement the procedures for negotiated rulemaking or alternative
 6-3 dispute resolution; and

6-4 (3) collect data concerning the effectiveness of those
 6-5 procedures, as implemented by the commission.

6-6 Sec. 301.069. PARTNERSHIP WITH BUSINESS COMMUNITY. To meet
 6-7 the needs of businesses in this state and to equip workers and job
 6-8 seekers with the skills required to compete for jobs in this state,
 6-9 the commission shall:

6-10 (1) partner with the business community to:

6-11 (A) identify:

6-12 (i) skills required by the business
 6-13 community;

6-14 (ii) key industry sectors in the business
 6-15 community that are likely to benefit from skill development
 6-16 services and programs offered by the commission; and

6-17 (iii) employment opportunities offered by
 6-18 the business community; and

6-19 (B) develop services and programs that are
 6-20 designed to equip workers and job seekers with the skills required
 6-21 by the business community; and

6-22 (2) support business and community economic
 6-23 development activities of local workforce development boards and
 6-24 the state.

6-25 SECTION 3.08. The changes in law made by this article to
 6-26 Section 301.023, Labor Code, apply only to a written complaint
 6-27 filed with the Texas Workforce Commission on or after the effective
 6-28 date of this Act, regardless of whether the conduct or act that is
 6-29 the subject of the complaint occurred or was committed before, on,
 6-30 or after the effective date of this Act.

6-31 SECTION 3.09. The Texas Workforce Commission shall
 6-32 implement Sections 301.046, 301.0681, 301.0682, and 301.069, as
 6-33 added by this article, not later than February 1, 2004.

6-34 ARTICLE 4. WORKFORCE DEVELOPMENT

6-35 SECTION 4.01. Subsection (a), Section 302.006, Labor Code,
 6-36 is amended to read as follows:

6-37 (a) The commission ~~may~~ shall develop and administer a
 6-38 program under which the commission awards scholarships in the
 6-39 amount of \$1,000 each for professional child-care training to
 6-40 eligible recipients.

6-41 SECTION 4.02. Subchapter A, Chapter 302, Labor Code, is
 6-42 amended by adding Sections 302.0042, 302.0043, and 302.013 to read
 6-43 as follows:

6-44 Sec. 302.0042. EVALUATION OF ALLOCATION FORMULAS FOR CHILD
 6-45 CARE DEVELOPMENT FUNDS. (a) The commission shall annually
 6-46 evaluate the formulas used by the commission to distribute federal
 6-47 child care development funds to local workforce development boards
 6-48 in order to ensure that the formulas address the child care needs of
 6-49 each local workforce development board.

6-50 (b) The commission's evaluation must assess:

6-51 (1) the use of current federal child care funds by each
 6-52 local workforce development board;

6-53 (2) the ability of each local workforce development
 6-54 board to meet child care performance measures;

6-55 (3) the average cost of child care in each local
 6-56 workforce development area;

6-57 (4) the poverty rate of each local workforce
 6-58 development area compared to the state's poverty rate;

6-59 (5) the number of children on waiting lists for child
 6-60 care in each local workforce development area; and

6-61 (6) the number of vacant slots available for child
 6-62 care placement in each local workforce development area.

6-63 Sec. 302.0043. EVALUATION OF EMPLOYMENT OUTCOMES OF PARENTS
 6-64 RECEIVING SUBSIDIZED CHILD CARE. (a) To evaluate the
 6-65 effectiveness of the commission's child care program in helping
 6-66 parents who receive subsidized child care to maintain employment,
 6-67 the commission shall compile, regarding each parent receiving
 6-68 subsidized child care from the commission's child care program, the
 6-69 following information regarding the wage and employment status of

7-1 the parent:
 7-2 (1) if the parent receives both financial assistance
 7-3 under Chapter 31, Human Resources Code, and subsidized child care,
 7-4 whether the parent:
 7-5 (A) finds employment; and
 7-6 (B) maintains the parent's employment after one
 7-7 year;
 7-8 (2) if the parent receives only subsidized child care,
 7-9 whether the parent:
 7-10 (A) maintains the parent's employment; and
 7-11 (B) experiences a change in the parent's earnings
 7-12 after one year of employment; and
 7-13 (3) if the parent leaves the child care program:
 7-14 (A) the parent's reason for leaving the program;
 7-15 and
 7-16 (B) whether the parent returns to financial
 7-17 assistance under Chapter 31, Human Resources Code, or becomes a
 7-18 recipient of financial assistance under that chapter for the first
 7-19 time.
 7-20 (b) The commission may use the wage and employment records
 7-21 of the parents to determine the employment outcome of the parents.
 7-22 (c) The commission shall periodically analyze the
 7-23 information collected by the commission under this section and
 7-24 shall compile its findings regarding the effectiveness of the
 7-25 commission's child care program in helping parents receiving
 7-26 subsidized child care to maintain employment or to move toward
 7-27 self-sufficiency.
 7-28 (d) The commission shall make the information collected by
 7-29 the commission and the commission's findings available to local
 7-30 workforce development boards.
 7-31 (e) Not later than January 15 of each odd-numbered year, the
 7-32 commission shall report to the legislature regarding the
 7-33 commission's findings regarding the effectiveness of the
 7-34 commission's child care program.
 7-35 Sec. 302.013. LOCAL WORKFORCE DEVELOPMENT BOARD ADVISORY
 7-36 COMMITTEE. (a) In this section, "advisory committee" means the
 7-37 local workforce development board advisory committee created under
 7-38 this section.
 7-39 (b) The organization composed of a member of and the staff
 7-40 director of each local workforce development board in this state
 7-41 shall establish a local workforce development board advisory
 7-42 committee composed of nine members appointed by the executive
 7-43 officers of that organization.
 7-44 (c) The advisory committee shall be composed of:
 7-45 (1) six members of local workforce development boards
 7-46 who serve as members of the organization described by Subsection
 7-47 (b); and
 7-48 (2) three staff directors of local workforce
 7-49 development boards who serve as members of the organization
 7-50 described by Subsection (b).
 7-51 (d) The members of the advisory committee must represent
 7-52 different geographic areas of the state.
 7-53 (e) The advisory committee shall:
 7-54 (1) meet at least quarterly;
 7-55 (2) report to the commission at least annually; and
 7-56 (3) advise the commission and commission staff
 7-57 regarding the programs, policies, and rules of the commission that
 7-58 affect the operations of local workforce development boards and the
 7-59 local workforce delivery system.
 7-60 SECTION 4.03. Subchapter C, Chapter 302, Labor Code, is
 7-61 amended by adding Section 302.048 to read as follows:
 7-62 Sec. 302.048. ASSESSMENT OF LOCAL WORKFORCE DEVELOPMENT
 7-63 BOARD'S CAPACITY TO OVERSEE AND MANAGE LOCAL FUNDS AND DELIVERY OF
 7-64 SERVICES. (a) In consultation with local workforce development
 7-65 boards, the commission by rule shall establish criteria to be used
 7-66 by the commission to evaluate each local workforce development
 7-67 board's overall capacity to oversee and manage local funds and the
 7-68 delivery of local workforce services.
 7-69 (b) The criteria established under Subsection (a) must

8-1 address a local workforce development board's ability to:

8-2 (1) develop, maintain, and upgrade comprehensive
8-3 fiscal management systems;

8-4 (2) hire, train, and retain qualified staff to carry
8-5 out the board's oversight activities;

8-6 (3) select and oversee local contractors to improve
8-7 the delivery of workforce services;

8-8 (4) oversee and improve the operations of local career
8-9 development centers in the area served by the board;

8-10 (5) manage the contractors' performance across
8-11 multiple board programs; and

8-12 (6) identify and resolve long-standing oversight
8-13 problems of the board and performance problems of contract
8-14 providers.

8-15 (c) Based on the criteria prescribed under this section, the
8-16 commission shall develop performance measures to be used by the
8-17 commission to evaluate each local workforce development board and
8-18 each local career center.

8-19 (d) The commission shall post the results of the
8-20 commission's evaluation of each local workforce development board
8-21 and each local career development center on the commission's
8-22 Internet website in a format that is readily accessible to and
8-23 understandable by a member of the public.

8-24 SECTION 4.04. Subchapter D, Chapter 302, Labor Code, is
8-25 amended by adding Section 302.065 to read as follows:

8-26 Sec. 302.065. INTEGRATION OF BLOCK GRANT PROGRAMS AND
8-27 WORKFORCE SERVICES. (a) To streamline the delivery of services
8-28 provided in local career development centers, the local workforce
8-29 boards shall integrate the operation of block grant programs and
8-30 workforce services.

8-31 (b) The commission, in consultation with local workforce
8-32 development boards, shall ensure that state-level rules, policies,
8-33 procedures, and organizational structures support the integration
8-34 of workforce services and related support services at the local
8-35 level.

8-36 (c) To the greatest extent possible and using existing
8-37 resources, each local career development center that provides
8-38 workforce services shall provide:

8-39 (1) an integrated eligibility determination for
8-40 workforce services; and

8-41 (2) integrated case management for a customer
8-42 receiving workforce services.

8-43 SECTION 4.05. The Texas Workforce Commission shall adopt
8-44 rules to establish criteria to be used to evaluate each local
8-45 workforce development board as required by Section 302.048, Labor
8-46 Code, as added by this article, not later than May 1, 2004.

8-47 SECTION 4.06. The Texas Workforce Commission shall
8-48 implement Section 302.048, Labor Code, as added by this article,
8-49 not later than September 1, 2004.

8-50 SECTION 4.07. The Texas Workforce Commission shall
8-51 implement Sections 302.0042 and 302.0043, Labor Code, as added by
8-52 this article, as soon as possible after the effective date of this
8-53 Act.

8-54 SECTION 4.08. (a) Not later than September 1, 2004, the
8-55 Texas Workforce Commission shall:

8-56 (1) conduct a review of the commission's programs,
8-57 rules, policies, procedures, and organizational structure to
8-58 identify specific barriers to the integration by the commission of
8-59 federal block grant programs and the caseworker functions
8-60 associated with those programs;

8-61 (2) conduct at least three and not more than five pilot
8-62 projects in different local workforce development board areas to
8-63 identify the best methods to integrate federal block grant programs
8-64 and the caseworker functions associated with those programs; and

8-65 (3) modify and develop the commission's programs,
8-66 rules, policies, procedures, and organizational structure to
8-67 support the integration by the commission of federal block grant
8-68 programs and the caseworker functions associated with those
8-69 programs.

9-1 (b) The commission may request a waiver of any federal
 9-2 requirement from a federal agency if the commission determines that
 9-3 the waiver is necessary for the implementation of this section.

9-4 (c) Not later than January 15, 2005, the Texas Workforce
 9-5 Commission shall submit to the 79th Legislature a report regarding
 9-6 the results of the review and pilot projects conducted by the
 9-7 commission under Subsection (a) of this section. The report must
 9-8 include the commission's recommendations for any statutory changes
 9-9 required to facilitate the integration by the commission of federal
 9-10 block grant programs and the caseworker functions associated with
 9-11 those programs.

9-12 ARTICLE 5. ADULT EDUCATION AND LITERACY ISSUES

9-13 SECTION 5.01. Chapter 301, Labor Code, is amended by adding
 9-14 Subchapter I to read as follows:

9-15 SUBCHAPTER I. ADULT EDUCATION AND LITERACY

9-16 Sec. 301.151. COOPERATION WITH TEXAS EDUCATION AGENCY TO
 9-17 IMPROVE ADULT EDUCATION AND LITERACY SERVICES. The commission
 9-18 shall collaborate with the Texas Education Agency to improve the
 9-19 coordination and implementation of adult education and literacy
 9-20 services in this state.

9-21 Sec. 301.152. DEVELOPMENT OF WORKPLACE LITERACY AND BASIC
 9-22 SKILLS CURRICULUM. (a) Under contract with the Texas Education
 9-23 Agency, the commission shall develop a demand-driven workplace
 9-24 literacy and basic skills curriculum aimed at assisting local
 9-25 workforce development boards to equip workers and job seekers with
 9-26 the skills necessary to compete for current and emerging jobs in
 9-27 this state.

9-28 (b) In developing the general curriculum required by
 9-29 Subsection (a), the commission shall:

9-30 (1) evaluate existing efforts and potential cost
 9-31 savings resulting from designing specific curricula that address
 9-32 the needs of various industry sectors in the business community;

9-33 (2) contract for field work to solicit the assistance
 9-34 of workers, employers, providers, and local workforce development
 9-35 boards in developing industry sector curricula;

9-36 (3) target up to five industry sectors in the business
 9-37 community that are likely to benefit from the development of
 9-38 specific curricula; and

9-39 (4) pilot test the curricula within the targeted
 9-40 industry sectors and adjust the curricula based on feedback
 9-41 received from workers and employers in those sectors.

9-42 (c) Based on the curriculum developed under this section,
 9-43 the commission shall develop workforce basic skills credentials to
 9-44 be used to define, measure, and certify the mastery of the basic
 9-45 skills required by the curricula developed under this section.

9-46 (d) This section expires September 1, 2005.

9-47 SECTION 5.02. Subsection (a), Section 302.021, Labor Code,
 9-48 is amended to read as follows:

9-49 (a) The following job-training, employment, and
 9-50 employment-related educational programs and functions are
 9-51 consolidated under the authority of the division:

9-52 (1) career [~~adult education programs under Subchapter~~
 9-53 ~~H, Chapter 29, Education Code;~~

9-54 [~~2) proprietary~~] school and college programs under
 9-55 Chapter 132, Education Code;

9-56 (2) [~~3)~~] apprenticeship programs under Chapter 133,
 9-57 Education Code;

9-58 (3) [~~4)~~] postsecondary vocational and technical
 9-59 job-training programs that are not a part of approved courses or
 9-60 programs that lead to licensing, certification, or an associate
 9-61 degree under Chapters 61, 130, and 135, Education Code, Subchapter
 9-62 E, Chapter 88, Education Code, and Subchapter E, Chapter 96,
 9-63 Education Code;

9-64 (4) [~~5)~~] employment programs under Chapter 31, Human
 9-65 Resources Code;

9-66 (5) [~~6)~~] the senior citizens employment program
 9-67 under Chapter 101, Human Resources Code;

9-68 (6) [~~7)~~] the work and family policies program under
 9-69 Chapter 81;

10-1 (7) [(8)] job-training programs funded under [~~the Job~~
 10-2 ~~Training Partnership Act (29 U.S.C. Section 1501 et seq.) and~~
 10-3 ~~under] the Workforce Investment Act of 1998 (29 U.S.C. Section 2801~~
 10-4 ~~et seq.);~~

10-5 (8) [(9)] the job counseling program for displaced
 10-6 homemakers under Chapter 304;

10-7 (9) [(10)] the reintegration of offenders program
 10-8 under Chapter 306;

10-9 (10) [(11)] the inmate employment counseling program
 10-10 [~~under Section 499.051(f), Government Code];~~

10-11 (11) [(12)] the continuity of care program under
 10-12 Section 501.095, Government Code;

10-13 (12) [(13)] a literacy program from state, local,
 10-14 federal, and private funds available to the state for that purpose;

10-15 (13) [(14)] the employment service;

10-16 (14) [(15)] the community service program under the
 10-17 National and Community Service Act of 1990 (42 U.S.C. Section 12501
 10-18 et seq.);

10-19 (15) [(16)] the trade adjustment assistance program
 10-20 under Part 2, Subchapter II, Trade Act of 1974 (19 U.S.C. Section
 10-21 2271 et seq.);

10-22 (16) [(17)] education, employment, employment
 10-23 support, training services, activities and programs funded under
 10-24 Temporary Assistance for Needy Families (42 U.S.C. Section 601 et
 10-25 seq.);

10-26 (17) [(18)] the food stamp employment and training
 10-27 program authorized under 7 U.S.C. Section 2015(d); and

10-28 (18) [(19)] the functions of the State Occupational
 10-29 Information Coordinating Committee.

10-30 SECTION 5.03. Section 29.252, Education Code, is amended by
 10-31 amending Subsection (a) and adding Subsection (a-1) to read as
 10-32 follows:

10-33 (a) The agency shall:

10-34 (1) provide adequate staffing to develop, administer,
 10-35 and support a comprehensive statewide adult education program and
 10-36 coordinate related federal and state programs for education and
 10-37 training of adults;

10-38 (2) develop, implement, and regulate a comprehensive
 10-39 statewide program for community level education services to meet
 10-40 the special needs of adults;

10-41 (3) develop the mechanism and guidelines for
 10-42 coordination of comprehensive adult education and related skill
 10-43 training services for adults with other agencies, both public and
 10-44 private, in planning, developing, and implementing related
 10-45 programs, including community education programs;

10-46 (4) administer all state and federal funds for adult
 10-47 education and related skill training in this state, except in
 10-48 programs for which another entity is specifically authorized to do
 10-49 so under other law;

10-50 (5) prescribe and administer standards and
 10-51 accrediting policies for adult education;

10-52 (6) prescribe and administer rules for teacher
 10-53 certification for adult education;

10-54 (7) accept and administer grants, gifts, services, and
 10-55 funds from available sources for use in adult education; ~~and~~

10-56 (8) adopt or develop and administer a standardized
 10-57 assessment mechanism for assessing all adult education program
 10-58 participants who need literacy instruction, adult basic education,
 10-59 or secondary education leading to an adult high school diploma or
 10-60 the equivalent;

10-61 (9) collaborate with the Texas Workforce Commission to
 10-62 improve the coordination and implementation of adult education and
 10-63 literacy services in this state; and

10-64 (10) monitor and evaluate educational and employment
 10-65 outcomes of students who participate in the agency's adult
 10-66 education and literacy programs.

10-67 (a-1) The agency shall use existing funds to contract with
 10-68 the Texas Workforce Commission for the development of a
 10-69 demand-driven workplace literacy and basic skills curriculum that

11-1 complies with the requirements adopted under Section 301.152, Labor
11-2 Code. This subsection expires September 1, 2005.

11-3 SECTION 5.04. Subchapter C, Chapter 2308, Government Code,
11-4 is amended by adding Section 2308.1016 to read as follows:

11-5 Sec. 2308.1016. DUTY TO FACILITATE DELIVERY OF INTEGRATED
11-6 ADULT EDUCATION AND LITERACY SERVICES. (a) In addition to any
11-7 duty imposed under this subchapter, to facilitate the efficient
11-8 delivery of integrated adult education and literacy services in
11-9 this state, the council shall:

11-10 (1) evaluate adult education and literacy programs
11-11 administered by the Texas Education Agency and the Texas Workforce
11-12 Commission to identify:

11-13 (A) any duplication of planning by those agencies
11-14 at the state and local level;

11-15 (B) any lack of adequate client information
11-16 sharing between those agencies; and

11-17 (C) any other problems that adversely affect the
11-18 delivery of those programs by the agencies;

11-19 (2) develop and implement immediate and long-range
11-20 strategies to address problems identified by the council under
11-21 Subdivision (1); and

11-22 (3) develop a system to monitor and evaluate the wage
11-23 and employment outcomes of students who participate in the adult
11-24 education and literacy programs administered by the Texas Education
11-25 Agency, including students referred to the programs by the Texas
11-26 Workforce Commission or local workforce development boards, to
11-27 ensure the effectiveness of the programs in improving the
11-28 employment-related outcomes of the students.

11-29 (b) The council shall include in the council's annual report
11-30 to the governor and to the legislature:

11-31 (1) a list of specific problems identified by the
11-32 council under Subsection (a) to be addressed by the council in the
11-33 following year; and

11-34 (2) the results of any measures taken by the council to
11-35 address problems identified by the council under Subsection (a).

11-36 (c) The long-range strategies developed by the council
11-37 under Subsection (a) must:

11-38 (1) identify the agency responsible for implementing
11-39 each strategy; and

11-40 (2) include a schedule for the implementation of each
11-41 strategy.

11-42 SECTION 5.05. Section 2308.104, Government Code, is amended
11-43 by adding Subsection (i) to read as follows:

11-44 (i) The council shall include in the strategic plan the
11-45 long-range strategies developed by the council under Section
11-46 2308.1016 to facilitate the efficient delivery of integrated adult
11-47 education and literacy services in this state.

11-48 SECTION 5.06. The Texas Workforce Commission shall
11-49 implement Section 301.151, Labor Code, as added by this article, as
11-50 soon as possible after the effective date of this Act.

11-51 SECTION 5.07. The Texas Workforce Commission shall
11-52 implement Section 301.152, Labor Code, as added by this article,
11-53 not later than September 1, 2005.

11-54 SECTION 5.08. The Texas Education Agency shall implement
11-55 Subsection (a), Section 29.252, Education Code, as amended by this
11-56 article, and Subsection (a-1), Section 29.252, Education Code, as
11-57 added by this article, as soon as possible after the effective date
11-58 of this Act.

11-59 SECTION 5.09. The Council on Workforce and Economic
11-60 Competitiveness shall implement Section 2308.1016 and Subsection
11-61 (i), Section 2308.104, Government Code, as added by this article,
11-62 not later than December 31, 2003.

11-63 ARTICLE 6. PARTIAL TRANSFERS OF UNEMPLOYMENT
11-64 COMPENSATION EXPERIENCE RATES

11-65 SECTION 6.01. Section 204.084, Labor Code, is amended by
11-66 amending Subsection (c) and adding Subsection (d) to read as
11-67 follows:

11-68 (c) Except as provided by Subsection (d), the [The]
11-69 commission shall approve an application if:

12-1 (1) immediately after the acquisition the successor
 12-2 employing unit continues operation of substantially the same part
 12-3 of the organization, trade, or business acquired;

12-4 (2) the predecessor employer waives in writing all
 12-5 rights to an experience rating computed on the compensation
 12-6 experience attributable to the part of the organization, trade, or
 12-7 business acquired by the successor employing unit, unless the
 12-8 acquisition results from the death of the predecessor employer;

12-9 (3) a definitely identifiable and segregable part of
 12-10 the predecessor employer's compensation experience is attributable
 12-11 to the part of the organization, trade, or business acquired; ~~and~~

12-12 (4) for a successor employing unit that is not an
 12-13 employer at the time of the acquisition, the successor employing
 12-14 unit elects to become an employer on the date of the acquisition or
 12-15 otherwise becomes an employer during the year in which the
 12-16 acquisition occurs;

12-17 (5) the application was filed with the commission not
 12-18 later than the first anniversary of the effective date of the
 12-19 acquisition; and

12-20 (6) the applicants have shown that:

12-21 (A) the acquired part of the organization, trade,
 12-22 or business is capable of operating independently and separately
 12-23 from the predecessor employer; and

12-24 (B) the wages attributable to the acquired part
 12-25 of the organization, trade, or business are solely attributable to
 12-26 services provided on behalf of the acquired part of the
 12-27 organization, trade, or business.

12-28 (d) The commission may deny a transfer of compensation
 12-29 experience under this section if the commission determines based on
 12-30 credible evidence that the acquisition was done primarily to
 12-31 qualify for a reduced unemployment insurance tax rate by:

12-32 (1) circumventing the experience rating system; or

12-33 (2) manipulating the experience rating system by
 12-34 minimizing the impact of chargebacks to the predecessor employer's
 12-35 tax account.

12-36 SECTION 6.02. The changes in law made by this article to
 12-37 Section 204.084, Labor Code, apply only to an acquisition of an
 12-38 organization, trade, or business that occurs on or after the
 12-39 effective date of this Act. An acquisition of an organization,
 12-40 trade, or business that occurs before the effective date of this Act
 12-41 is governed by the law in effect on the date the acquisition
 12-42 occurred, and that law is continued in effect for that purpose.

12-43 ARTICLE 7. CAREER SCHOOLS AND COLLEGES

12-44 PART 1. SUBSTANTIVE CHANGES REGARDING CAREER SCHOOLS AND COLLEGES

12-45 SECTION 7.01. Subchapter A, Chapter 132, Education Code, is
 12-46 amended by adding Section 132.0015 to read as follows:

12-47 Sec. 132.0015. REFERENCE TO PROPRIETARY SCHOOL. A
 12-48 reference in this code or another law to a proprietary school means
 12-49 a career school or college.

12-50 SECTION 7.02. Section 132.061, Education Code, is amended
 12-51 to read as follows:

12-52 Sec. 132.061. REFUND POLICY. (a) Except as provided by
 12-53 Subsection (g), as a condition for granting certification each
 12-54 career [proprietary] school or college must maintain a cancellation
 12-55 and settlement policy that must provide a full refund of all monies
 12-56 paid by a student if:

12-57 (1) the student cancels the enrollment agreement or
 12-58 contract within 72 hours (until midnight of the third day excluding
 12-59 Saturdays, Sundays, and legal holidays) after the enrollment
 12-60 contract is signed by the prospective student; or

12-61 (2) the enrollment of the student was procured as the
 12-62 result of any misrepresentation in advertising, promotional
 12-63 materials of the school or college, or representations by the owner
 12-64 or representatives of the school or college.

12-65 (b) Except as provided by Subsection (g), as a condition for
 12-66 granting certification each career [proprietary] school or college
 12-67 must maintain a policy for the refund of the unused portion of
 12-68 tuition, fees, and other charges in the event the student, after
 12-69 expiration of the 72-hour cancellation privilege, fails to enter

13-1 the course, withdraws, or is discontinued therefrom at any time
 13-2 prior to completion, and such policy must provide:

13-3 (1) refunds for resident courses will be based on the
 13-4 period of enrollment computed on the basis of course time expressed
 13-5 in clock hours;

13-6 (2) the effective date of the termination for refund
 13-7 purposes in residence schools or colleges will be the earliest of
 13-8 the following:

13-9 (A) the last date of attendance, if the student
 13-10 is terminated by the school or college;

13-11 (B) the date of receipt of written notice from
 13-12 the student; or

13-13 (C) 10 school days following the last date of
 13-14 attendance;

13-15 (3) if tuition and fees are collected in advance of
 13-16 entrance, and if, after expiration of the 72-hour cancellation
 13-17 privilege, the student does not enter the residence school or
 13-18 college, not more than \$100 shall be retained by the school or
 13-19 college;

13-20 (4) for the student who enters a residence course of
 13-21 not more than 12 months in length, terminates, or withdraws, the
 13-22 school or college may retain \$100 of tuition and fees and the
 13-23 minimum refund of the remaining tuition and fees will be:

13-24 (A) during the first week or one-tenth of the
 13-25 course, whichever is less, 90 percent of the remaining tuition and
 13-26 fees;

13-27 (B) after the first week or one-tenth of the
 13-28 course, whichever is less, but within the first three weeks or
 13-29 one-fifth of the course, whichever is less, 80 percent of the
 13-30 remaining tuition and fees;

13-31 (C) after the first three weeks or one-fifth of
 13-32 the course, whichever is less, but within the first quarter of the
 13-33 course, 75 percent of the remaining tuition and fees;

13-34 (D) during the second quarter of the course, 50
 13-35 percent of the remaining tuition and fees;

13-36 (E) during the third quarter of the course, 10
 13-37 percent of the remaining tuition and fees; or

13-38 (F) during the last quarter of the course, the
 13-39 student may be considered obligated for the full tuition and fees;

13-40 (5) for residence courses more than 12 months in
 13-41 length, the refund shall be applied to each 12-month period paid, or
 13-42 part thereof separately, and the student is entitled to a refund as
 13-43 provided by Subdivision (4);

13-44 (6) refunds of items of extra expense to the student,
 13-45 such as instructional supplies, books, student activities,
 13-46 laboratory fees, service charges, rentals, deposits, and all other
 13-47 such ancillary miscellaneous charges, where these items are
 13-48 separately stated and shown in the data furnished the student
 13-49 before enrollment, will be made in a reasonable manner acceptable
 13-50 to the commission;

13-51 (7) refunds based on enrollment in residence schools
 13-52 or colleges will be totally consummated within 60 days after the
 13-53 effective date of termination;

13-54 (8) refunds for correspondence courses will be
 13-55 computed on the basis of the number of lessons in the course;

13-56 (9) the effective date of the termination for refund
 13-57 purposes in correspondence courses will be the earliest of the
 13-58 following:

13-59 (A) the date of notification to the student if
 13-60 the student is terminated;

13-61 (B) the date of receipt of written notice from
 13-62 the student; or

13-63 (C) the end of the third calendar month following
 13-64 the month in which the student's last lesson assignment was
 13-65 received unless notification has been received from the student
 13-66 that the student wishes to remain enrolled;

13-67 (10) if tuition and fees are collected before any
 13-68 lessons have been completed, and if, after expiration of the
 13-69 72-hour cancellation privilege, the student fails to begin the

14-1 course, not more than \$50 shall be retained by the school or
 14-2 college;

14-3 (11) in cases of termination or withdrawal after the
 14-4 student has begun the correspondence course, the school or college
 14-5 may retain \$50 of tuition and fees, and the minimum refund policy
 14-6 must provide that the student will be refunded the pro rata portion
 14-7 of the remaining tuition, fees, and other charges that the number of
 14-8 lessons completed and serviced by the school or college bears to the
 14-9 total number of lessons in the course; and

14-10 (12) refunds based on enrollment in correspondence
 14-11 schools or colleges will be totally consummated within 60 days
 14-12 after the effective date of termination.

14-13 (c) In lieu of the refund policy herein set forth, for
 14-14 programs of instruction not regularly offered to the public, the
 14-15 commission may, for good cause shown, amend, modify, or substitute
 14-16 the terms of a career school or college's [~~proprietary school's~~]
 14-17 policy due to the specialized nature and objective of the school or
 14-18 college's [~~school's~~] course of instruction.

14-19 (d) If a course of instruction is discontinued by the career
 14-20 [~~proprietary~~] school or college and this prevents the student from
 14-21 completing the course, all tuition and fees paid are then due and
 14-22 refundable.

14-23 (e) If a refund is not made within the period required by
 14-24 this section, the career [~~proprietary~~] school or college shall pay
 14-25 a penalty. If the refund is made to a lending institution, the
 14-26 penalty shall also be paid to that institution and applied against
 14-27 the student's loan. The commission annually shall establish the
 14-28 level of the penalty at a level sufficient to provide a deterrent to
 14-29 the retention of student funds. The commission may exempt a school
 14-30 or college from the payment of the penalty if the school or college
 14-31 makes a good faith effort to refund the tuition, fees, and other
 14-32 charges but is unable to locate the student. The school or college
 14-33 shall provide to the commission on request documentation of the
 14-34 effort to locate the student.

14-35 (f) A career [~~proprietary~~] school or college shall record a
 14-36 grade of "incomplete" for a student who withdraws but is not
 14-37 entitled to a refund under Subsection (b)(4)(F) if the student
 14-38 requests the grade at the time the student withdraws and the student
 14-39 withdraws for an appropriate reason unrelated to the student's
 14-40 academic status. A student who receives a grade of incomplete may
 14-41 re-enroll in the program during the 12-month period following the
 14-42 date the student withdraws and complete those incomplete subjects
 14-43 without payment of additional tuition.

14-44 (g) A program that is 40 hours or less of class time, or a
 14-45 seminar or workshop, is exempt from the 72-hour rule provided by
 14-46 Subsection (a). The career [~~proprietary~~] school or college shall
 14-47 maintain a policy for the refund of the unused portion of tuition,
 14-48 fees, and other charges in the event the student fails to enter the
 14-49 course, withdraws from the course, or is discontinued from the
 14-50 class at any time before completion of the course as provided by
 14-51 this section. The policy must provide that:

14-52 (1) refunds are based on the period of enrollment
 14-53 computed on the basis of course time expressed in clock hours;

14-54 (2) the effective date of the termination for refund
 14-55 purposes is the earlier of:

14-56 (A) the last date of attendance; or

14-57 (B) the date the school or college receives
 14-58 written notice from the student that the student is withdrawing
 14-59 from the class; and

14-60 (3) the student will be refunded the pro rata portion
 14-61 of tuition, fees, and other charges that the number of class hours
 14-62 remaining in the course after the effective date of the termination
 14-63 bears to the total number of class hours in the course.

14-64 (h) A closing career school or college shall make a full
 14-65 refund to each student of the school or college who is owed a refund
 14-66 under this section.

14-67 (i) Each officer, director, and owner of a career school or
 14-68 college that closes is personally liable for the amount of any
 14-69 refund owed to a student under Subsection (h).

15-1 SECTION 7.03. Chapter 132, Education Code, is amended by
15-2 adding Subchapter J to read as follows:

15-3 SUBCHAPTER J. CEASE AND DESIST ORDERS

15-4 Sec. 132.301. HEARING; NOTICE. (a) The commission may set
15-5 a hearing on whether to issue a cease and desist order against a
15-6 person under Section 132.303 if:

15-7 (1) the commission has reason to believe that the
15-8 person is operating a career school or college without a
15-9 certificate issued by the commission in violation of Section
15-10 132.151; and

15-11 (2) the person has not responded to more than one
15-12 written notice from the commission regarding the person's
15-13 noncompliance with Section 132.151.

15-14 (b) The commission shall serve on the person a statement of
15-15 charges and a notice of hearing, including a copy of the applicable
15-16 rules of the commission.

15-17 Sec. 132.302. HEARING. Except as agreed by the parties with
15-18 prior written approval of the commission, a hearing under this
15-19 subchapter must be held not earlier than the fifth day or later than
15-20 the 30th day after the date of service of the statement and notice
15-21 required under Section 132.301.

15-22 Sec. 132.303. CEASE AND DESIST ORDER. After a hearing held
15-23 under this subchapter, the commission may issue against the person
15-24 charged with operating a career school or college without a
15-25 certificate issued by the commission an order that requires that
15-26 the person immediately cease and desist from violating this
15-27 chapter.

15-28 Sec. 132.304. ENFORCEMENT; REFERRAL TO THE ATTORNEY
15-29 GENERAL. The commission may refer the matter to the consumer
15-30 protection division of the attorney general's office for
15-31 enforcement if the commission has reason to believe that a person
15-32 has violated or failed to respond to a cease and desist order issued
15-33 under this subchapter.

15-34 Sec. 132.305. EFFECT OF PRIOR PROCEEDINGS. The commission
15-35 may proceed under this chapter or any other applicable law without
15-36 regard to prior proceedings.

15-37 Sec. 132.306. RULES. The commission shall adopt rules as
15-38 necessary to implement this subchapter.

15-39 SECTION 7.04. Section 132.241, Education Code, is amended
15-40 by amending Subsections (a), (b), (d), and (e) and adding
15-41 Subsections (f) and (g) to read as follows:

15-42 (a) Except as provided by Subsection (d), at the time that
15-43 each career [proprietary] school or college pays its annual renewal
15-44 fee, in the years provided by Subsection (b), the commission shall
15-45 also collect a fee from the school or college for deposit to the
15-46 credit of the career [proprietary] school or college tuition
15-47 protection fund.

15-48 (b) If on January 1 of any year the amount in the fund is
15-49 less than \$400,000 [~~\$200,000~~], the commission shall collect a fee
15-50 during that year by applying a percentage to each career school or
15-51 college's [proprietary school's] annual renewal fee at a rate that
15-52 will bring the balance of the fund to \$500,000 [~~\$250,000~~].

15-53 (d) A career [proprietary] school or college is not required
15-54 to pay the fee for the tuition protection fund under Subsection (a)
15-55 if, at the time the school or college pays the annual renewal fee,
15-56 the bond provided by the school or college under Section 132.060 is
15-57 greater than the unearned tuition of the school or college.

15-58 (e) If at the end of a fiscal year the commission determines
15-59 that it has collected fees under this chapter in excess of the
15-60 amount necessary to defray the cost and expense of administering
15-61 this chapter, the commission may transfer any portion of the excess
15-62 amount to the tuition protection fund. The balance of the fund may
15-63 not exceed an amount greater than \$500,000 [~~\$250,000~~].

15-64 (f) From money in the tuition protection fund, the
15-65 commission shall attempt to provide a full refund to each student of
15-66 a closed career school or college of the amount of the refund owed
15-67 to the student under Section 132.061. The commission may provide a
15-68 partial refund to a student only if the commission determines that
15-69 the amount of money in the tuition protection fund is not sufficient

16-1 to provide a full refund to the student. The commission shall
 16-2 consider the following factors in determining the amount of a
 16-3 partial refund to be paid to a student:

- 16-4 (1) the amount of money in the fund;
- 16-5 (2) the cost and number of claims against the fund
 16-6 resulting from closure of the school or college;
- 16-7 (3) the average cost of a claim paid from the fund in
 16-8 the past; and
- 16-9 (4) the availability of other licensed career schools
 16-10 or colleges at which the student may complete the student's
 16-11 training.

16-12 (g) Notwithstanding Subsections (b) and (e), in the state
 16-13 fiscal year ending August 31, 2004:

16-14 (1) the commission shall collect a fee under
 16-15 Subsection (b) only if on January 1 of that year the amount in the
 16-16 fund is less than \$300,000; and

16-17 (2) the balance of the tuition protection fund may not
 16-18 exceed \$375,000. This subsection expires September 1, 2005.

16-19 SECTION 7.05. Section 132.242, Education Code, is amended
 16-20 to read as follows:

16-21 Sec. 132.242. CLOSED SCHOOL OR COLLEGE. (a) If a career
 16-22 [~~proprietary~~] school or college closes, the commission shall
 16-23 attempt to arrange for students of the closed school or college to
 16-24 attend another career [~~proprietary~~] school or college.

16-25 (b) The expense incurred by a career [~~proprietary~~] school or
 16-26 college in providing a teachout that is directly related to
 16-27 educating a student placed in the school or college under this
 16-28 section, including the applicable tuition for the period for which
 16-29 the student has paid tuition, shall be paid from the career
 16-30 [~~proprietary~~] school or college tuition protection fund.

16-31 (c) If the student cannot be placed in another career
 16-32 [~~proprietary~~] school or college, the student's tuition and fees
 16-33 shall be refunded under Section 132.061(d).

16-34 (d) If a student does not accept a place that is available
 16-35 and reasonable in another career [~~proprietary~~] school or college,
 16-36 the student's tuition and fees shall be refunded under the refund
 16-37 policy maintained by the closing career [~~proprietary~~] school or
 16-38 college under Section 132.061(b).

16-39 (e) If the amount of the closed career school or college's
 16-40 [~~proprietary school's~~] bond under Section 132.060 is less than the
 16-41 amount required for student refunds under Subsections (c) and (d),
 16-42 the refunds shall be paid from the career [~~proprietary~~] school or
 16-43 college tuition protection fund in an amount not to exceed \$150,000
 16-44 [~~\$50,000~~].

16-45 (f) If another career [~~proprietary~~] school or college
 16-46 assumes responsibility for the closed career school or college's
 16-47 [~~proprietary school's~~] students with no significant changes in the
 16-48 quality of training, the student is not entitled to a refund under
 16-49 Subsection (c) or (d).

16-50 (g) Attorney's fees, court costs, or damages may not be paid
 16-51 from the career [~~proprietary~~] school or college tuition protection
 16-52 fund.

16-53 PART 2. CONFORMING AMENDMENTS REGARDING 16-54 CAREER SCHOOLS AND COLLEGES

16-55 SECTION 7.06. Subsection (b), Section 52.32, Education
 16-56 Code, is amended to read as follows:

16-57 (b) If a loan applicant is enrolled at a career
 16-58 [~~proprietary~~] school or college in a degree program that is
 16-59 approved by the board, the applicant is not required to provide
 16-60 evidence that he is unable to obtain a guaranteed student loan from
 16-61 a commercial lender under Subsection (a)(2) of this section.

16-62 SECTION 7.07. Subdivision (5), Section 53.02, Education
 16-63 Code, is amended to read as follows:

16-64 (5) "Institution of higher education" means (i) any
 16-65 institution of higher education as defined by Subdivision (8) of
 16-66 Section 61.003 of this code, or (ii) a degree-granting college or
 16-67 university corporation accredited by the Texas Education Agency or
 16-68 by a recognized accrediting agency, as defined by Subdivision (13)
 16-69 of Section 61.003 of this code, or (iii) a postsecondary career

17-1 [~~proprietary~~] school or college accredited by the Association of
 17-2 Independent Colleges and Schools, the National Association of Trade
 17-3 and Technical Schools, or the National Accrediting Commission of
 17-4 Cosmetology Arts and Sciences.

17-5 SECTION 7.08. Section 54.6001, Education Code, is amended
 17-6 to read as follows:

17-7 Sec. 54.6001. PUBLIC PURPOSE. An educated population being
 17-8 necessary to the social development and economic health of this
 17-9 state, the legislature finds and declares it to be an urgent public
 17-10 necessity to assist young Texans in obtaining a higher education.
 17-11 Because the state's population is rapidly growing and is diverse,
 17-12 the state is required to use all of the higher education facilities
 17-13 and resources within the state, both public and private, to provide
 17-14 a wide variety of educational environments and instructional
 17-15 options and to preserve the partnership between the state and
 17-16 private or independent institutions of higher education and between
 17-17 the state and career [~~proprietary~~] schools and colleges, as defined
 17-18 by Section 132.001, that offer a two-year associate degree as
 17-19 approved by the Texas Higher Education Coordinating Board.
 17-20 Therefore, the prepaid higher education tuition program is
 17-21 established to help Texas students attend the institution that best
 17-22 meets their individual needs.

17-23 SECTION 7.09. Subdivision (9), Section 54.601, Education
 17-24 Code, is amended to read as follows:

17-25 (9) "Career school or college" [~~"Proprietary school"~~]
 17-26 means a career [~~proprietary~~] school or college, as defined by
 17-27 Section 132.001, that offers a two-year associate degree as
 17-28 approved by the Texas Higher Education Coordinating Board.

17-29 SECTION 7.10. Subsection (a), Section 54.605, Education
 17-30 Code, is amended to read as follows:

17-31 (a) A prepaid tuition contract remains in effect after the
 17-32 program is terminated if, when the program is terminated, the
 17-33 beneficiary:

- 17-34 (1) has been accepted by or is enrolled in an
 17-35 institution of higher education, a private or independent
 17-36 institution of higher education, or a career [~~proprietary~~] school
 17-37 or college; or
- 17-38 (2) is projected to graduate from high school not
 17-39 later than the third anniversary of the date the program is
 17-40 terminated.

17-41 SECTION 7.11. Subsection (b), Section 54.618, Education
 17-42 Code, is amended to read as follows:

- 17-43 (b) The board may:
 - 17-44 (1) adopt an official seal;
 - 17-45 (2) adopt rules to implement this subchapter;
 - 17-46 (3) sue and be sued;
 - 17-47 (4) enter into contracts and other necessary
 17-48 instruments;
 - 17-49 (5) enter into agreements or other transactions with
 17-50 the United States, state agencies, including institutions of higher
 17-51 education, private or independent institutions of higher
 17-52 education, career [~~proprietary~~] schools and colleges, and local
 17-53 governments;
 - 17-54 (6) appear in its own behalf before governmental
 17-55 agencies;
 - 17-56 (7) contract for necessary goods and services and
 17-57 engage the services of private consultants, actuaries, trustees,
 17-58 records administrators, managers, legal counsel, and auditors for
 17-59 administrative or technical assistance;
 - 17-60 (8) solicit and accept gifts, grants, loans, and other
 17-61 aid from any source or participate in any other way in any
 17-62 government program to carry out this subchapter;
 - 17-63 (9) impose administrative fees;
 - 17-64 (10) contract with a person to market the program;
 - 17-65 (11) purchase liability insurance covering the board
 17-66 and employees and agents of the board; and
 - 17-67 (12) establish other policies, procedures, and
 17-68 eligibility criteria to implement this subchapter.

17-69 SECTION 7.12. Subsection (h), Section 54.619, Education

18-1 Code, is amended to read as follows:

18-2 (h) Notwithstanding other provisions of this subchapter,
 18-3 any contract benefits purchased under this subchapter may be
 18-4 applied to the payment of tuition and required fees at a career
 18-5 ~~[proprietary]~~ school or college as if the ~~[proprietary]~~ school or
 18-6 college were an institution of higher education or private or
 18-7 independent institution of higher education. On the purchaser's
 18-8 request, the board shall apply, in accordance with Section 54.628,
 18-9 any existing amount of prepaid tuition contract benefits to the
 18-10 payment of tuition and required fees at a career ~~[proprietary]~~
 18-11 school or college. The board is not responsible for the payment of
 18-12 tuition and required fees at the career ~~[proprietary]~~ school or
 18-13 college in excess of that amount. The board may adopt rules as
 18-14 necessary to implement this subsection.

18-15 SECTION 7.13. The heading of Chapter 132, Education Code,
 18-16 is amended to read as follows:

18-17 CHAPTER 132. CAREER ~~[PROPRIETARY]~~ SCHOOLS AND COLLEGES

18-18 SECTION 7.14. Subdivisions (1) through (8), (10), and (12),
 18-19 Section 132.001, Education Code, are amended to read as follows:

18-20 (1) "Career school or college" ~~["Proprietary school"]~~
 18-21 means any business enterprise operated for a profit, or on a
 18-22 nonprofit basis, that maintains a place of business within this
 18-23 state, or solicits business within this state, and that is not
 18-24 specifically exempted by this chapter and:

18-25 (A) that offers or maintains a course or courses
 18-26 of instruction or study; or

18-27 (B) at which place of business such a course or
 18-28 courses of instruction or study is available through classroom
 18-29 instruction or by correspondence, or both, to a person for the
 18-30 purpose of training or preparing the person for a field of endeavor
 18-31 in a business, trade, technical, or industrial occupation, or for
 18-32 avocational or personal improvement.

18-33 (2) "Owner" of a career school or college ~~[proprietary~~
 18-34 ~~school]~~ means:

18-35 (A) in the case of a career school or college
 18-36 owned by an individual, that individual;

18-37 (B) in the case of a career school or college
 18-38 owned by a partnership, all full, silent, and limited partners;

18-39 (C) in the case of a career school or college
 18-40 owned by a corporation, the corporation, its directors, officers,
 18-41 and each shareholder owning shares of issued and outstanding stock
 18-42 aggregating at least 10 percent of the total of the issued and
 18-43 outstanding shares;

18-44 (D) in the case of a career school or college in
 18-45 which the ownership interest is held in trust, the beneficiary of
 18-46 that trust; or

18-47 (E) in the case of a career school or college
 18-48 owned by another legal entity, a person who owns at least 10 percent
 18-49 ownership interest in the entity.

18-50 (3) "School employee" means any person, other than an
 18-51 owner, who directly or indirectly receives compensation from a
 18-52 career ~~[proprietary]~~ school or college for services rendered.

18-53 (4) "Representative" means a person employed by a
 18-54 career ~~[proprietary]~~ school or college, whether the school or
 18-55 college is located within or without this state, to act as an agent,
 18-56 solicitor, broker, or independent contractor to directly procure
 18-57 students for the school or college by solicitation within or
 18-58 without this state at any place.

18-59 (5) "Agency administrator" means the agency
 18-60 administrator of the Texas Workforce Commission or a person,
 18-61 knowledgeable in the administration of regulating career
 18-62 ~~[proprietary]~~ schools and colleges, designated by the agency
 18-63 administrator to administer this chapter.

18-64 (6) "Notice to the career school or college"
 18-65 ~~[proprietary school]~~ means written correspondence sent to the
 18-66 address of record for legal service contained in the application
 18-67 for a certificate of approval. "Date of Notice" means the date the
 18-68 notice is mailed by the commission.

18-69 (7) "Support" or "supported" means the primary source

19-1 and means by which a career [~~proprietary~~] school or college derives
 19-2 revenue to perpetuate its operation.

19-3 (8) "Person" means any individual, firm, partnership,
 19-4 association, corporation, or other private entity or combination
 19-5 [~~thereof~~].

19-6 (10) "Small career school or college" [~~proprietary~~
 19-7 ~~school~~] means a career [~~proprietary~~] school or college that does
 19-8 not receive any payment from federal funds under 20 U.S.C. Section
 19-9 1070 et seq. and its subsequent amendments or a prepaid federal or
 19-10 state source as compensation in whole or in part for any student
 19-11 tuition and fees or other charges and either:

19-12 (A) has an annual gross income from student
 19-13 tuition and fees that is less than or equal to \$100,000 for programs
 19-14 regulated by the agency;

19-15 (B) exclusively offers programs to assist
 19-16 students to prepare for an undergraduate or graduate course of
 19-17 study at a college or university; or

19-18 (C) exclusively offers programs to assist
 19-19 students, who have obtained, or who are in the process of obtaining,
 19-20 degrees after completing an undergraduate or graduate course of
 19-21 study at a college or university, to prepare for an examination.

19-22 (12) "Division" means the division of education of of
 19-23 [~~in~~] the commission.

19-24 SECTION 7.15. Subsection (a), Section 132.002, Education
 19-25 Code, is amended to read as follows:

19-26 (a) The following schools or educational institutions are
 19-27 specifically exempt from this chapter and are not within the
 19-28 definition of "career school or college" [~~"proprietary school"~~]:

19-29 (1) a school or educational institution supported by
 19-30 taxation from either a local or state source;

19-31 (2) nonprofit schools owned, controlled, operated,
 19-32 and conducted by bona fide religious, denominational,
 19-33 eleemosynary, or similar public institutions exempt from property
 19-34 taxation under the laws of this state, but such schools may choose
 19-35 to apply for a certificate of approval hereunder, and upon approval
 19-36 and issuance, are subject to this chapter as determined by the
 19-37 commission;

19-38 (3) a school or training program that offers
 19-39 instruction of purely avocational or recreational subjects as
 19-40 determined by the commission;

19-41 (4) a course or courses of instruction or study
 19-42 sponsored by an employer for the training and preparation of its own
 19-43 employees, and for which no tuition fee is charged to the student;

19-44 (5) a course or courses of study or instruction
 19-45 sponsored by a recognized trade, business, or professional
 19-46 organization for the instruction of the members of the organization
 19-47 with a closed membership;

19-48 (6) private colleges or universities that award a
 19-49 recognized baccalaureate, or higher degree, and that maintain and
 19-50 operate educational programs for which a majority of the credits
 19-51 given are transferable to a college, junior college, or university
 19-52 supported entirely or partly by taxation from either a local or
 19-53 state source;

19-54 (7) a school or course that is otherwise regulated and
 19-55 approved under and pursuant to any other law or rulemaking process
 19-56 of this state or approved for continuing education credit by an
 19-57 organization that accredits courses for the maintenance of a
 19-58 license, except as provided by Subsection (c);

19-59 (8) aviation schools or instructors approved by and
 19-60 under the supervision of the Federal Aviation Administration;

19-61 (9) a school that offers intensive review of a
 19-62 student's acquired education, training, or experience to prepare
 19-63 the student for an examination, other than a high school
 19-64 equivalency examination, that the student by law may not take
 19-65 unless the student has completed or substantially completed a
 19-66 particular degree program, or that the student is required to take
 19-67 as a precondition for enrollment in or admission to a particular
 19-68 degree program;

19-69 (10) a private school offering primary or secondary

20-1 education, which may include a kindergarten or prekindergarten
 20-2 program, and that satisfies the compulsory attendance requirements
 20-3 of Section 25.085 pursuant to Section 25.086(a)(1);

20-4 (11) a course or courses of instruction by bona fide
 20-5 electrical trade associations for the purpose of preparing students
 20-6 for electrical tests required for licensing and for the purpose of
 20-7 providing continuing education to students for the renewal of
 20-8 electrical licenses;

20-9 (12) a nonprofit arts organization that has as its
 20-10 primary purpose the provision of instruction in the dramatic arts
 20-11 and the communications media to persons younger than 19 years of
 20-12 age;

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

20-22 (14) a course of instruction by a plumbing trade
 20-23 association to prepare students for a plumbing test or program
 20-24 required for licensing, certification, or endorsement or to provide
 20-25 continuing education approved by the Texas State Board of Plumbing
 20-26 Examiners; and

20-27 (15) a course of instruction in the use of
 20-28 technological hardware or software if the course is offered to a
 20-29 purchaser of the hardware or software or to the purchaser's
 20-30 employee by a person who manufactures and sells, or develops and
 20-31 sells, the hardware or software, and if the seller is not primarily
 20-32 in the business of providing courses of instruction in the use of
 20-33 the hardware or software, as determined by the commission.

20-34 SECTION 7.16. Subsections (a) and (b), Section 132.021,
 20-35 Education Code, are amended to read as follows:

20-36 (a) The commission shall exercise jurisdiction and control
 20-37 of the system of career [~~proprietary~~] schools and colleges, and the
 20-38 commission shall carry out supervision of the provisions of this
 20-39 chapter, and enforce minimum standards for approval of career
 20-40 [~~proprietary~~] schools and colleges under the operating regulations
 20-41 and policies hereinafter set forth and as may be adopted pursuant to
 20-42 this chapter.

20-43 (b) The commission shall prepare a comparison of the cost to
 20-44 a student of courses of instruction or training programs at career
 20-45 [~~proprietary~~] schools and colleges to the cost to a student of
 20-46 similar courses or programs at schools that are exempt from this
 20-47 chapter under Section 132.002.

20-48 SECTION 7.17. Section 132.022, Education Code, is amended
 20-49 to read as follows:

20-50 Sec. 132.022. DUTIES OF COMMISSION. The commission shall
 20-51 carry out the policies of this chapter and enforce the rules adopted
 20-52 under this chapter. The commission shall also certify the names of
 20-53 those career [~~proprietary~~] schools and colleges meeting the
 20-54 requirements for a certificate of approval.

20-55 SECTION 7.18. Section 132.023, Education Code, is amended
 20-56 to read as follows:

20-57 Sec. 132.023. MEMORANDUM OF UNDERSTANDING FOR REGULATION OF
 20-58 CAREER [~~PROPRIETARY~~] SCHOOLS AND COLLEGES. (a) The commission
 20-59 shall develop, in consultation with the Texas Guaranteed Student
 20-60 Loan Corporation and each state agency that regulates career
 20-61 [~~proprietary~~] schools and colleges in this state, a comprehensive
 20-62 strategy to reduce default rates at the regulated career
 20-63 [~~proprietary~~] schools and colleges and to improve the overall
 20-64 quality of the programs operated by these schools and colleges.

20-65 (b) The commission shall execute a memorandum of
 20-66 understanding outlining the strategy with the corporation and each
 20-67 state agency regulating career [~~proprietary~~] schools and colleges
 20-68 and shall adopt rules to carry out the commission's [~~its~~] duties
 20-69 under this section. The Texas Guaranteed Student Loan Corporation

21-1 shall adopt the memorandum of understanding as procedures of the
21-2 corporation, and each agency by rule shall adopt the memorandum of
21-3 understanding.

21-4 (c) The memorandum of understanding shall:

21-5 (1) require the development and monitoring of
21-6 indicators that identify career [proprietary] schools and colleges
21-7 that have excessive loan default rates, poor program performance,
21-8 or both;

21-9 (2) require the sharing of specific information
21-10 relating to the indicators between the commission and the Texas
21-11 Guaranteed Student Loan Corporation or other agency; and

21-12 (3) require the application of specific sanctions by
21-13 the commission or by the Texas Guaranteed Student Loan Corporation
21-14 or other agency, as appropriate, to lower the default rates,
21-15 improve program performance, or both.

21-16 (d) If the commission enters a memorandum of understanding
21-17 with the Texas Guaranteed Student Loan Corporation related to the
21-18 regulation of career [proprietary] schools and colleges, the
21-19 commission may require each career [proprietary] school or college
21-20 governed by this chapter to provide information to the commission
21-21 that is necessary for the purposes of the memorandum of
21-22 understanding.

21-23 SECTION 7.19. Section 132.051, Education Code, is amended
21-24 to read as follows:

21-25 Sec. 132.051. CERTIFICATE OF APPROVAL. (a) A career
21-26 [proprietary] school or college may not maintain, advertise,
21-27 solicit for, or conduct any course of instruction in this state
21-28 before the later of:

21-29 (1) the 30th day after the date the school or college
21-30 applies for a certificate of approval under this chapter; or

21-31 (2) the date the school or college receives a
21-32 certificate of approval from the commission.

21-33 (b) Any contract entered into with any person for a course
21-34 of instruction by or on behalf of any person operating any career
21-35 [proprietary] school or college to which a certificate of approval
21-36 has not been issued pursuant to this chapter is unenforceable in any
21-37 action brought thereon.

21-38 SECTION 7.20. Section 132.052, Education Code, is amended
21-39 to read as follows:

21-40 Sec. 132.052. APPLICATION FOR CERTIFICATE OF APPROVAL.
21-41 Every career [proprietary] school or college desiring to operate in
21-42 this state or do business in this state shall make written
21-43 application to the commission for a certificate of approval. Such
21-44 application shall be verified, be in such form as may be prescribed
21-45 by the commission, and shall furnish the commission such
21-46 information as the commission may require.

21-47 SECTION 7.21. Section 132.053, Education Code, is amended
21-48 to read as follows:

21-49 Sec. 132.053. STATUTORY WAIVER AUTHORITY. (a) The
21-50 commission may establish rules that waive, alter, suspend, or
21-51 replace any of the following provisions governing small career
21-52 [proprietary] schools and colleges:

21-53 (1) the fee schedule authorized under Section 132.201,
21-54 provided that fees under a fee schedule established by rule may not
21-55 be less than the reasonable administrative cost for regulation or
21-56 more than the amount that a small career [proprietary] school or
21-57 college would otherwise pay if it were not classified as a small
21-58 career [proprietary] school or college;

21-59 (2) participation in the career [proprietary] school
21-60 or college tuition protection fund required by Section 132.241;

21-61 (3) the refund policy provisions of Section 132.061;

21-62 (4) the bonding requirements of Section 132.060;

21-63 (5) the examination of a school or college for
21-64 compliance under Section 132.056(f);

21-65 (6) the reporting requirements of Section 132.055(o);
21-66 and

21-67 (7) the term for which a certificate of approval is
21-68 issued under Section 132.056(b), provided that a rule adopted under
21-69 this section may not provide for a term that exceeds three years or

22-1 is less than one year.

22-2 (b) A rule proposed under this section may be adopted only
22-3 if it will reduce the regulatory burden for small career
22-4 [~~proprietary~~] schools and colleges and will adequately safeguard
22-5 the interests of the students of small career [~~proprietary~~] schools
22-6 and colleges to receive either the education for which they have
22-7 contracted or an appropriate refund.

22-8 SECTION 7.22. Section 132.054, Education Code, is amended
22-9 to read as follows:

22-10 Sec. 132.054. SMALL SCHOOL OR COLLEGE EXEMPTION. The
22-11 commission may exempt small career [~~proprietary~~] schools and
22-12 colleges from any requirement of this chapter to reduce the cost to
22-13 small schools and colleges of receiving a certificate of approval.

22-14 SECTION 7.23. Section 132.055, Education Code, is amended
22-15 to read as follows:

22-16 Sec. 132.055. CRITERIA. The commission may approve the
22-17 application of such career [~~proprietary~~] school or college when the
22-18 school or college is found, upon investigation at the premises of
22-19 the school or college, to have met the following criteria:

22-20 (a) The courses, curriculum, and instruction are of such
22-21 quality, content, and length as may reasonably and adequately
22-22 achieve the stated objective for which the courses, curriculum, or
22-23 instruction are offered. Before a school or college conducts a
22-24 course of instruction in court reporting, the school or college
22-25 must produce evidence that the school or college has obtained
22-26 approval for the curriculum from the Court Reporters Certification
22-27 Board.

22-28 (b) There is in the school or college adequate space,
22-29 equipment, instructional material, and instructor personnel to
22-30 provide training of good quality.

22-31 (c) Educational and experience qualifications of directors,
22-32 administrators, and instructors are adequate.

22-33 (d) The school or college maintains a written record of the
22-34 previous education and training of the applicant student and
22-35 clearly indicates that appropriate credit has been given by the
22-36 school or college for previous education and training, with the new
22-37 training period shortened where warranted through use of
22-38 appropriate skills or achievement tests and the student so
22-39 notified.

22-40 (e) A copy of the course outline; schedule of tuition, fees,
22-41 refund policy, and other charges; regulations pertaining to
22-42 absence, grading policy, and rules of operation and conduct;
22-43 regulations pertaining to incomplete grades; the name, mailing
22-44 address, and telephone number of the commission for the purpose of
22-45 directing complaints to the agency; the current rates of job
22-46 placement and employment of students issued a certificate of
22-47 completion; and notification of the availability of the cost
22-48 comparison information prepared under Section 132.021(b) through
22-49 the commission will be furnished the student prior to enrollment.

22-50 (f) Except as provided by Section 132.062, on completion of
22-51 training, the student is given a certificate by the school or
22-52 college indicating the course and that training was satisfactorily
22-53 completed.

22-54 (g) Adequate records as prescribed by the commission are
22-55 kept to show attendance and progress or grades, and satisfactory
22-56 standards relating to attendance, progress, and conduct are
22-57 enforced.

22-58 (h) The school or college complies with all local, city,
22-59 county, municipal, state, and federal regulations, such as fire,
22-60 building, and sanitation codes. The commission may require such
22-61 evidence of compliance as is deemed necessary.

22-62 (i) The school or college is financially sound and capable
22-63 of fulfilling its commitments for training.

22-64 (j) The school or college's [~~school's~~] administrators,
22-65 directors, owners, and instructors are of good reputation and
22-66 character.

22-67 (k) The school or college has, maintains, and publishes in
22-68 its catalogue and enrollment contract the proper policy for the
22-69 refund of the unused portion of tuition, fees, and other charges in

23-1 the event the student enrolled by the school or college fails to
 23-2 take the course or withdraws or is discontinued therefrom at any
 23-3 time prior to completion.

23-4 (l) The school or college does not utilize erroneous or
 23-5 misleading advertising, either by actual statement, omission, or
 23-6 intimation as determined by the commission.

23-7 (m) Such additional criteria as may be required by the
 23-8 commission.

23-9 (n) The school or college does not use a name like or similar
 23-10 to an existing tax supported school or college in the same area.

23-11 (o) The school or college furnishes to the commission the
 23-12 current rates of students who receive a certificate of completion
 23-13 and of job placement and employment of students issued a
 23-14 certificate of completion.

23-15 (p) The school or college furnishes to the commission for
 23-16 approval or disapproval student admission requirements for each
 23-17 course or program offered by the school or college.

23-18 (q) The school or college furnishes to the commission for
 23-19 approval or disapproval the course hour lengths and curriculum
 23-20 content for each course offered by the school or college.

23-21 (r) The school or college does not owe a penalty under
 23-22 Section 132.152, 132.155, or 132.157.

23-23 SECTION 7.24. Section 132.056, Education Code, is amended
 23-24 to read as follows:

23-25 Sec. 132.056. ISSUANCE OF CERTIFICATE OF APPROVAL; RENEWAL.

23-26 (a) The commission, upon review of an application for a
 23-27 certificate of approval duly submitted in accordance with Section
 23-28 132.052 and meeting the requirements of Section 132.055, shall
 23-29 issue a certificate of approval to the applicant career
 23-30 [~~proprietary~~] school or college. The certificate of approval shall
 23-31 be in a form prescribed by the commission and shall state in a clear
 23-32 and conspicuous manner at least the following information:

23-33 (1) date of issuance, effective date, and term of
 23-34 approval;

23-35 (2) correct name and address of the school or college;

23-36 (3) authority for approval and conditions of approval,
 23-37 if any, referring specifically to the approved catalogue or
 23-38 bulletin published by the school or college;

23-39 (4) signature of the agency administrator; and

23-40 (5) any other fair and reasonable representations that
 23-41 are consistent with this chapter and deemed necessary by the
 23-42 commission.

23-43 (b) The term for which a certificate of approval shall be
 23-44 issued may not exceed one year.

23-45 (c) The certificate of approval shall be issued to the owner
 23-46 of the applicant career [~~proprietary~~] school or college and is
 23-47 nontransferable. In the event of a change in ownership of the
 23-48 school or college, a new owner must, at least 30 days prior to the
 23-49 change in ownership, apply for a new certificate of approval.

23-50 (d) At least 30 days prior to expiration of a certificate of
 23-51 approval, the career [~~proprietary~~] school or college shall forward
 23-52 to the commission an application for renewal. The commission shall
 23-53 reexamine the premises of the school or college as frequently as the
 23-54 commission considers necessary and renew, revoke, or deny renewal
 23-55 of the school or college's [~~school's~~] certificate of approval. If a
 23-56 school or college fails to file a complete application for renewal
 23-57 at least 30 days before the expiration date of the certificate of
 23-58 approval, the school or college, as a condition of renewal, must
 23-59 pay, in addition to the annual renewal fee, a late renewal fee in an
 23-60 amount established by commission rule of at least \$100.

23-61 (e) A career [~~proprietary~~] school or college not yet in
 23-62 operation when its application for certificate of approval is filed
 23-63 may not begin operation until receipt of certificate of approval.

23-64 (f) The commission shall visit a career [~~proprietary~~]
 23-65 school or college to reexamine the school or college for compliance
 23-66 with the criteria provided by Section 132.055 not later than three
 23-67 months after the date the [~~a~~] school or college begins operation or
 23-68 after a change in ownership of the [~~a~~] school or college.

23-69 SECTION 7.25. Section 132.058, Education Code, is amended

24-1 to read as follows:

24-2 Sec. 132.058. REVOCATION OF CERTIFICATE OF APPROVAL.
 24-3 (a) The commission may revoke an issued certificate of approval or
 24-4 place reasonable conditions upon the continued approval
 24-5 represented by the certificate. Prior to revocation or imposition
 24-6 of conditions upon a certificate of approval, the commission shall
 24-7 notify the holder of the certificate, in writing, of the impending
 24-8 action and set forth the grounds for the action. The commission may
 24-9 reexamine a career [~~proprietary~~] school or college two or more
 24-10 times during each year in which a notice relating to the school or
 24-11 college has been issued or conditions have been imposed on the
 24-12 school or college under this subsection.

24-13 (b) A certificate of approval may be revoked or made
 24-14 conditional if the commission has reasonable cause to believe that
 24-15 the career [~~proprietary~~] school or college is guilty of a violation
 24-16 of this chapter or of any rules adopted under this chapter.

24-17 SECTION 7.26. Subsections (a), (b), and (d), Section
 24-18 132.059, Education Code, are amended to read as follows:

24-19 (a) All representatives employed by a career [~~proprietary~~]
 24-20 school or college shall register with the commission. Application
 24-21 for registration may be made at any time and shall be based on
 24-22 information submitted in accordance with the provisions of Section
 24-23 132.052.

24-24 (b) Registration of a representative is effective upon
 24-25 receipt of notice from the commission and remains in effect for a
 24-26 period not in excess of 12 calendar months. Renewal of
 24-27 representative registration shall be in accordance with the renewal
 24-28 application form forwarded to the career [~~proprietary~~] school or
 24-29 college by the commission.

24-30 (d) Career [~~Proprietary~~] schools and colleges domiciled or
 24-31 having their principal place of business outside of this state that
 24-32 engage representatives to canvass, solicit, or contract with any
 24-33 person within this state[7] are subject to the requirements for
 24-34 registration of representatives.

24-35 SECTION 7.27. Section 132.060, Education Code, is amended
 24-36 to read as follows:

24-37 Sec. 132.060. BOND REQUIREMENTS. (a) Before a certificate
 24-38 of approval is issued under this chapter, a bond shall be provided
 24-39 by the career [~~proprietary~~] school or college for the period during
 24-40 which the certificate of approval is issued, and the obligation of
 24-41 the bond shall be that neither this chapter nor any rule adopted
 24-42 pursuant thereto shall be violated by the school or college or any
 24-43 of its officers, agents, or employees. The bond shall be in the
 24-44 penal sum of \$5,000 or a multiple of \$5,000 that is not greater than
 24-45 \$35,000 for a certificate of approval issued for a period that
 24-46 begins in the fiscal year ending August 31, 2002, and \$50,000 for a
 24-47 certificate of approval issued for a period that begins on or after
 24-48 September 1, 2002. The commission shall determine the amount based
 24-49 on the evidence the school or college submits of its projected
 24-50 maximum total unearned tuition during the period of the certificate
 24-51 of approval. The bond shall be a corporate surety bond issued by a
 24-52 company authorized to do business in this state, conditioned that
 24-53 the parties thereto shall pay all damages or expenses that the state
 24-54 or any governmental subdivision thereof or any student or potential
 24-55 student may sustain resulting from a violation. The bond shall be
 24-56 to the state to be used only for payment of a tuition refund due to a
 24-57 student or potential student. The bond shall be filed with the
 24-58 commission and shall be in such form as shall be approved by the
 24-59 commission.

24-60 (b) In lieu of the corporate surety bond required in
 24-61 Subsection (a), the career [~~proprietary~~] school or college may
 24-62 provide any other similar certificate or evidence of indebtedness
 24-63 as may be acceptable to the commission, provided that the
 24-64 certificate or evidence of indebtedness meets all the requirements
 24-65 applicable to the corporate surety bond.

24-66 (c) Career [~~Proprietary~~] schools and colleges domiciled or
 24-67 having their principal place of business outside of this state that
 24-68 engage representatives to canvass, solicit, or contract with any
 24-69 person within this state are subject to the bond requirements of

25-1 Subsection (a).

25-2 (d) The commission, for good cause shown, may waive and
25-3 suspend the requirements set forth in Subsections (a) and (b) with
25-4 respect to career [proprietary] schools and colleges operating
25-5 wholly or in part under a federal grant where no tuition fee is
25-6 charged to the student.

25-7 SECTION 7.28. Section 132.062, Education Code, is amended
25-8 to read as follows:

25-9 Sec. 132.062. WITHHOLDING RECORDS. A career [proprietary]
25-10 school or college may withhold a student's transcript or
25-11 certificate of completion of training until the student has
25-12 fulfilled the student's financial obligation to the school or
25-13 college.

25-14 SECTION 7.29. Section 132.063, Education Code, is amended
25-15 to read as follows:

25-16 Sec. 132.063. APPROVED DEGREES. A career [proprietary]
25-17 school or college may offer a degree approved by the Texas Higher
25-18 Education Coordinating Board.

25-19 SECTION 7.30. Section 132.064, Education Code, is amended
25-20 to read as follows:

25-21 Sec. 132.064. NONQUALIFICATION AS SMALL CAREER
25-22 [PROPRIETARY] SCHOOL AND COLLEGE. (a) A career [proprietary]
25-23 school or college operating as a small career [proprietary]
25-24 school or college but that has an annual gross income from tuition and fees
25-25 that exceeds \$100,000 (other than a test preparation school
25-26 described by Section 132.001(10)(B) or (C)) that intends to receive
25-27 a payment from federal funds under 20 U.S.C. Section 1070 et seq. or
25-28 intends to receive prepayment of tuition, fees, or other charges
25-29 from federal or state funds shall send written notice to the
25-30 commission. The notice must be sent not later than the following
25-31 date, as applicable:

25-32 (1) the 60th day after the date on which annual gross
25-33 income is determined to exceed the maximum;

25-34 (2) the day before receiving a payment of federal
25-35 funds under 20 U.S.C. Section 1070 et seq.; or

25-36 (3) the day before enrolling a student who will prepay
25-37 tuition, a fee, or another charge in whole or in part from federal
25-38 or state funds.

25-39 (b) A career [proprietary] school or college that no longer
25-40 qualifies as a small career [proprietary] school or college shall
25-41 apply for an initial certificate of approval as a career
25-42 [proprietary] school or college within 30 days after the date the
25-43 school has notified the commission that it no longer qualifies as a
25-44 small career [proprietary] school or college. The commission may
25-45 apply or prorate any fees paid by the school or college as a small
25-46 career [proprietary] school or college.

25-47 (c) A career [proprietary] school or college that no longer
25-48 qualifies as a small career [proprietary] school or college shall
25-49 submit to the commission an amount of money equal to the difference
25-50 between the fee for the small career [proprietary] school or
25-51 college certificate of approval submitted by the school or college
25-52 and the fee that the school or college would be required to submit
25-53 after its qualifications as a small career [proprietary] school or
25-54 college cease.

25-55 (d) The authority of a career [proprietary] school or
25-56 college to operate under a small career [proprietary] school or
25-57 college certificate of approval terminates on the final
25-58 determination of issuance or denial of an initial certificate of
25-59 approval. If a school or college fails to file a complete
25-60 application within the period required by Subsection (b), the
25-61 school or college, as a condition of issuance, must pay a late fee
25-62 in an amount established by commission rule of at least \$100.

25-63 SECTION 7.31. Section 132.151, Education Code, is amended
25-64 to read as follows:

25-65 Sec. 132.151. PROHIBITIONS. A person may not:

25-66 (1) operate a career [proprietary] school or college
25-67 without a certificate of approval issued by the commission;

25-68 (2) solicit prospective students for or on behalf of a
25-69 career [proprietary] school or college without being registered as

26-1 a representative of the career [proprietary] school or college as
 26-2 required by this chapter;

26-3 (3) accept contracts or enrollment applications from a
 26-4 representative who is not bonded as required by this chapter;

26-5 (4) utilize advertising designed to mislead or deceive
 26-6 prospective students;

26-7 (5) fail to notify the commission of the
 26-8 discontinuance of the operation of any career [proprietary] school
 26-9 or college within 72 hours of cessation of classes and make
 26-10 available accurate records as required by this chapter;

26-11 (6) fail to secure and file within 30 days an increased
 26-12 bond as required by this chapter;

26-13 (7) negotiate any promissory instrument received as
 26-14 payment of tuition or other charge prior to completion of 75 percent
 26-15 of the course, provided that prior to such time, the instrument may
 26-16 be transferred by assignment to a purchaser who shall be subject to
 26-17 all the defenses available against the career [proprietary] school
 26-18 or college named as payee; or

26-19 (8) violate any provision of this chapter.

26-20 SECTION 7.32. Section 132.153, Education Code, is amended
 26-21 to read as follows:

26-22 Sec. 132.153. COMPETITIVE BIDDING; ADVERTISING. The
 26-23 commission may not adopt rules to restrict competitive bidding or
 26-24 advertising by a career [proprietary] school or college except to
 26-25 prohibit false, misleading, or deceptive competitive bidding or
 26-26 advertising practices. Those rules may not restrict:

26-27 (1) the use of an advertising medium;

26-28 (2) the size or duration of an advertisement; or

26-29 (3) advertisement under a trade name.

26-30 SECTION 7.33. Subsection (a), Section 132.154, Education
 26-31 Code, is amended to read as follows:

26-32 (a) Whenever the commission has probable cause to believe
 26-33 that any career [proprietary] school or college has committed any
 26-34 acts that would be in violation of this chapter, the commission
 26-35 shall apply for an injunction restraining the commission of such
 26-36 acts.

26-37 SECTION 7.34. Section 132.156, Education Code, is amended
 26-38 to read as follows:

26-39 Sec. 132.156. SANCTIONS. (a) If the commission has
 26-40 reasonable cause to believe that a career [proprietary] school or
 26-41 college has violated this chapter or a rule adopted under this
 26-42 chapter, the commission may:

26-43 (1) order a peer review of the school or college; or

26-44 (2) suspend the admission of students to the school or
 26-45 college.

26-46 (b) A peer review ordered under this section shall be
 26-47 conducted by a peer review team composed of knowledgeable persons
 26-48 selected by the commission. The commission shall attempt to
 26-49 provide a balance on each team between members assigned to the team
 26-50 who are from this state and those who are from other states. The
 26-51 team shall provide the commission with an objective assessment of
 26-52 the content of the career school or college's [proprietary
 26-53 school's] curriculum and its application. The costs of providing a
 26-54 peer review team shall be paid by the school or college.

26-55 SECTION 7.35. Subsections (a) and (d), Section 132.157,
 26-56 Education Code, are amended to read as follows:

26-57 (a) If a career [proprietary] school or college fails to
 26-58 timely comply with the requirements of Section 132.064, in addition
 26-59 to any other penalties authorized by law, the commission may assess
 26-60 a penalty in an amount not greater than two times the amount that
 26-61 the school or college would have paid in fees and other charges if
 26-62 the school or college had complied with the requirements of Section
 26-63 132.064 or may assess a penalty in the amount of the tuition or fee
 26-64 charge to any students whose tuition or fees were contracted to be
 26-65 funded by a prepaid federal or state source.

26-66 (b) If the commission finds that the career [proprietary]
 26-67 school or college acted intentionally, the commission may, in
 26-68 addition to any other remedy available under law, assess a penalty
 26-69 against the owner in an amount not greater than four times the

27-1 amount of the fees and charges that the school or college should
 27-2 have paid or four times the amount of the student tuition that was
 27-3 contracted to be funded from a prepaid federal or state source.

27-4 (c) The failure to notify the commission within four months
 27-5 after the career school or college's [~~proprietary school's~~]
 27-6 earnings exceed that of a small career [~~proprietary~~] school or
 27-7 college gives rise to a rebuttable presumption of intent for
 27-8 purposes of assessment of a penalty.

27-9 (d) The failure to notify the commission within 10 days
 27-10 after a career [~~proprietary~~] school or college has enrolled a
 27-11 student whose tuition or fees are paid in whole or in part from a
 27-12 prepaid federal or state source gives rise to a rebuttable
 27-13 presumption of intent for purposes of assessment of a penalty.

27-14 SECTION 7.36. Subsections (a), (c) through (f), (h), and
 27-15 (i), Section 132.201, Education Code, are amended to read as
 27-16 follows:

27-17 (a) Certificate and registration fees, except those charged
 27-18 pursuant to Subsection (d), shall be collected by the commission.
 27-19 Each fee shall be in an amount set by the commission in an amount not
 27-20 to exceed 150 percent of each fee in the following schedule:

27-21 (1) the initial fee for a career [~~proprietary~~] school
 27-22 or college:

27-23 (A) for a certificate of approval is \$2,000; or

27-24 (B) for a small career [~~proprietary~~] school or
 27-25 college certificate of approval is \$1,000;

27-26 (2) the first renewal fee and each subsequent renewal
 27-27 fee for a career [~~proprietary~~] school or college is the greater of:

27-28 (A) an amount that is determined by applying a
 27-29 percentage, not to exceed 0.3 percent, to the gross tuition and
 27-30 fees, excluding refunds as provided by Section 132.061, of the
 27-31 school or college; or

27-32 (B) \$500;

27-33 (3) the initial registration fee for a representative
 27-34 is \$60;

27-35 (4) the annual renewal fee for a representative is
 27-36 \$30;

27-37 (5) the fee for a change of a name of a career
 27-38 [~~proprietary~~] school or college or owner is \$100;

27-39 (6) the fee for a change of an address of a career
 27-40 [~~proprietary~~] school or college is \$180;

27-41 (7) the fee for a change in the name or address of a
 27-42 representative or a change in the name or address of a career
 27-43 [~~proprietary~~] school or college that causes the reissuance of a
 27-44 representative permit is \$10;

27-45 (8) the application fee for an additional course is
 27-46 \$150, except for seminar and workshop courses, for which the fee is
 27-47 \$25;

27-48 (9) the application fee for a director, administrative
 27-49 staff member, or instructor is \$15;

27-50 (10) the application fee for the authority to grant
 27-51 degrees is \$2,000;

27-52 (11) the application fee for an additional degree
 27-53 course is \$250; and

27-54 (12) the fee for an inspection required by commission
 27-55 rule of classroom facilities that are separate from the main campus
 27-56 is \$250.

27-57 (c) For purposes of this section, the gross amount of annual
 27-58 student fees and tuition for a career [~~proprietary~~] school or
 27-59 college is the amount determined by the commission based on any
 27-60 report submitted by the school or college to the commission or other
 27-61 information obtained by the commission.

27-62 (d) In connection with the regulation of any career
 27-63 [~~proprietary~~] school or college or course through a memorandum of
 27-64 understanding pursuant to Section 132.002(c), the commission shall
 27-65 set an application and annual renewal fee, not to exceed \$2,000.
 27-66 The fee shall be an amount reasonably calculated to cover the
 27-67 administrative costs associated with assuming the additional
 27-68 regulation.

27-69 (e) The fee for an investigation at a career [~~proprietary~~]

28-1 school or college to resolve a complaint filed against the school or
 28-2 college is \$600. The fee may be charged only if:

28-3 (1) the complaint could not have been resolved by
 28-4 telephone or written correspondence only;

28-5 (2) a representative of the commission visits the
 28-6 school or college as a part of the complaint resolution process; and

28-7 (3) the school or college is found to be at fault.

28-8 (f) The commission may allow payment of any fee authorized
 28-9 under this section or under Section 132.241 that exceeds \$1,000 to
 28-10 be paid by installment. The commission shall provide for
 28-11 appropriate interest charges and late penalties in addition to any
 28-12 other remedy that is provided for by law for the late payment of a
 28-13 fee installment authorized under this section. The commission may
 28-14 assess a reasonable service charge or interest to be paid by a
 28-15 career [proprietary] school or college that pays a fee by
 28-16 installment in an amount not to exceed 10 percent annually of the
 28-17 fee that is to be paid by installment.

28-18 (h) The commission may apply or prorate a fee paid by a small
 28-19 career [proprietary] school or college that has complied with the
 28-20 notification requirements of Section 132.064 toward an initial
 28-21 certificate as a career [proprietary] school or college in the
 28-22 event that a career [proprietary] school or college has ceased to
 28-23 qualify as a small career [proprietary] school or college during a
 28-24 certification period.

28-25 (i) The commission may charge each career [proprietary]
 28-26 school or college a fee for the cost of a service that collects,
 28-27 analyzes, and reports student-level data in order to assess the
 28-28 outcome of students who attend career [proprietary] schools and
 28-29 colleges. The total amount of the fees charged under this
 28-30 subsection must not exceed the cost of the service to the
 28-31 commission.

28-32 SECTION 7.37. Subsection (b), Section 52.013, Government
 28-33 Code, is amended to read as follows:

28-34 (b) The board may:

28-35 (1) appoint any necessary or proper subcommittee;

28-36 (2) hire necessary employees;

28-37 (3) pay all reasonable expenses from available funds;

28-38 (4) approve curriculum for court reporter career
 28-39 [proprietary] schools and colleges as provided by Section 132.055,
 28-40 Education Code;

28-41 (5) approve court reporter programs in technical
 28-42 institutes and public community colleges for purposes of
 28-43 certification under Section 61.051, Education Code; and

28-44 (6) approve continuing professional education courses
 28-45 for persons certified as court reporters.

28-46 SECTION 7.38. Subdivision (3), Section 305.002, Labor Code,
 28-47 is amended to read as follows:

28-48 (3) "Eligible institution" means a career
 28-49 [proprietary] school or college in this state that:

28-50 (A) holds a certificate of approval under Chapter
 28-51 132, Education Code; and

28-52 (B) is approved by the commission under Section
 28-53 305.023 for its students to participate in the grant program
 28-54 established under this chapter.

28-55 SECTION 7.39. Section 305.023, Labor Code, is amended to
 28-56 read as follows:

28-57 Sec. 305.023. APPROVAL OF INSTITUTIONS. The commission
 28-58 shall approve a career [proprietary] school or college for its
 28-59 students to participate in the grant program established under this
 28-60 chapter if the school or college:

28-61 (1) has been accredited for not less than five years by
 28-62 an accrediting agency recognized by the United States Department of
 28-63 Education and maintains that accreditation;

28-64 (2) has held a certificate of approval under Chapter
 28-65 132, Education Code, for at least five years; and

28-66 (3) offers one or more qualified education programs.

28-67 SECTION 7.40. Section E, Article 2.23A, Texas Non-Profit
 28-68 Corporation Act (Article 1396-2.23A, Vernon's Texas Civil
 28-69 Statutes), is amended to read as follows:

E. This article does not apply to:

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

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

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

(4) religious institutions which shall be limited to churches, ecclesiastical or denominational organizations, or other established physical places for worship at which religious services are the primary activity and such activities are regularly conducted;

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

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

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

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

ARTICLE 8. REPEALER

SECTION 8.01. The following laws are repealed:

(1) Section 201.002, Labor Code;

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

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

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

ARTICLE 9. GENERAL CONFORMING AMENDMENTS

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

Sec. 30.103. MEMORANDUM OF UNDERSTANDING. The Texas Youth Commission with the assistance of the Texas Workforce [~~Employment~~] Commission and the Council on Workforce and Economic Competitiveness shall by rule adopt a memorandum of understanding that establishes the respective responsibility of those entities to provide through local workforce development boards job training and employment assistance programs to children committed or formerly sentenced to the Texas Youth Commission. The Texas Youth Commission shall coordinate the development of the memorandum of understanding and include in its annual report information describing the number of children in the preceding year receiving services under the memorandum.

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

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

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

(b) The task force is composed of:

(1) a representative of:

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

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

- 30-1 (C) the commission, appointed by the
- 30-2 commissioner;
- 30-3 (D) the Texas Department of Health, appointed by
- 30-4 the commissioner of public health;
- 30-5 (E) the Texas Department of Human Services,
- 30-6 appointed by the commissioner of human services;
- 30-7 (F) the Texas Workforce Commission, appointed by
- 30-8 the executive director [~~presiding officer~~] of that agency; and
- 30-9 (G) the Texas Rehabilitation Commission,
- 30-10 appointed by the commissioner of that agency; and
- 30-11 (2) two representatives of each of the following
- 30-12 groups, appointed by the comptroller:
- 30-13 (A) retailers who maintain electronic benefits
- 30-14 transfer point-of-sale equipment;
- 30-15 (B) banks or owners of automatic teller machines;
- 30-16 and
- 30-17 (C) consumer or client advocacy organizations.

30-18 SECTION 9.04. Subsection (c), Section 572.003, Government
 30-19 Code, is amended to read as follows:

- 30-20 (c) The term means a member of:
- 30-21 (1) the Public Utility Commission of Texas;
- 30-22 (2) the Texas Department of Economic Development
- 30-23 [~~Commerce~~];
- 30-24 (3) the Texas [~~Natural Resource Conservation~~]
- 30-25 Commission on Environmental Quality;
- 30-26 (4) the Texas Alcoholic Beverage Commission;
- 30-27 (5) The Finance Commission of Texas;
- 30-28 (6) the Texas Building and Procurement [~~General~~
- 30-29 ~~Services~~] Commission;
- 30-30 (7) the Texas Board of Criminal Justice;
- 30-31 (8) the board of trustees of the Employees Retirement
- 30-32 System of Texas;
- 30-33 (9) the Texas Transportation Commission;
- 30-34 (10) the Texas Workers' Compensation Commission;
- 30-35 (11) the Texas Department [~~State Board~~] of Insurance;
- 30-36 (12) the Parks and Wildlife Commission;
- 30-37 (13) the Public Safety Commission;
- 30-38 (14) the Texas Ethics Commission;
- 30-39 (15) the State Securities Board;
- 30-40 (16) the Texas Water Development Board;
- 30-41 (17) the governing board of a public senior college or
- 30-42 university as defined by Section 61.003, Education Code, or of The
- 30-43 University of Texas Southwestern Medical Center at Dallas, The
- 30-44 University of Texas Medical Branch at Galveston, The University of
- 30-45 Texas Health Science Center at Houston, The University of Texas
- 30-46 Health Science Center at San Antonio, The University of Texas
- 30-47 System Cancer Center, The University of Texas Health Science Center
- 30-48 at Tyler, University of North Texas Health Science Center at Fort
- 30-49 Worth, Texas Tech University Health Sciences Center, Texas State
- 30-50 Technical College--Harlingen, Texas State Technical
- 30-51 College--Marshall, Texas State Technical College--Sweetwater, or
- 30-52 Texas State Technical College--Waco;
- 30-53 (18) the Texas Higher Education Coordinating Board;
- 30-54 (19) the Texas Workforce [~~Employment~~] Commission;
- 30-55 (20) the State Banking Board;
- 30-56 (21) the board of trustees of the Teacher Retirement
- 30-57 System of Texas;
- 30-58 (22) the Credit Union Commission;
- 30-59 (23) the School Land Board;
- 30-60 (24) the board of the Texas Department of Housing and
- 30-61 Community Affairs;
- 30-62 (25) the Texas Racing Commission;
- 30-63 (26) the State Board of Dental Examiners;
- 30-64 (27) [~~the Texas Board of Licensure for Nursing Home~~
- 30-65 ~~Administrators~~;
- 30-66 [~~(28)~~] the Texas State Board of Medical Examiners;
- 30-67 (28) [~~(29)~~] the Board of Pardons and Paroles;
- 30-68 (29) [~~(30)~~] the Texas State Board of Pharmacy;
- 30-69 (30) [~~(31)~~] the Department of Information Resources

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

31-17 SECTION 9.05. Section 656.001, Government Code, is amended
 31-18 to read as follows:

31-19 Sec. 656.001. STATE AGENCY EMPLOYMENT OPENINGS. Any
 31-20 agency, board, bureau, commission, committee, council, court,
 31-21 department, institution, or office in the executive or judicial
 31-22 branch of state government that has an employment opening for which
 31-23 persons from outside the agency will be considered shall list the
 31-24 opening with the Texas Workforce [~~Employment~~] Commission.

31-25 SECTION 9.06. Subdivision (1), Section 656.021, Government
 31-26 Code, is amended to read as follows:

31-27 (1) "Commission" means the Texas Workforce
 31-28 [~~Employment~~] Commission.

31-29 SECTION 9.07. Section 657.009, Government Code, is amended
 31-30 to read as follows:

31-31 Sec. 657.009. PUBLIC ENTITIES TO LIST POSITIONS WITH TEXAS
 31-32 WORKFORCE [~~EMPLOYMENT~~] COMMISSION. (a) A public entity shall
 31-33 provide to the Texas Workforce [~~Employment~~] Commission, under rules
 31-34 adopted under this section by the commission, information regarding
 31-35 an open position that is subject to the hiring preference required
 31-36 by this chapter.

31-37 (b) The Texas Workforce [~~Employment~~] Commission shall make
 31-38 available to the public the information provided by a public entity
 31-39 under Subsection (a).

31-40 (c) To promote the purposes of this chapter, the Texas
 31-41 Workforce [~~Employment~~] Commission shall adopt rules under this
 31-42 section that facilitate the exchange of employment information
 31-43 between public entities and individuals entitled to a preference
 31-44 under this chapter.

31-45 (d) The Texas Workforce [~~Employment~~] Commission shall adopt
 31-46 forms and procedures necessary to administer this section.

31-47 SECTION 9.08. Subsection (a), Section 772.0031, Government
 31-48 Code, is amended to read as follows:

31-49 (a) The Human Resource Task Force is composed of a
 31-50 representative of:

- 31-51 (1) the governor's office, appointed by the governor;
- 31-52 (2) the state auditor's office, appointed by the state
 31-53 auditor;
- 31-54 (3) the comptroller's office, appointed by the
 31-55 comptroller;
- 31-56 (4) the attorney general's office, appointed by the
 31-57 attorney general;
- 31-58 (5) the Commission on Human Rights, appointed by the
 31-59 presiding officer of that agency;
- 31-60 (6) the Employees Retirement System of Texas,
 31-61 appointed by the presiding officer of the board of trustees of that
 31-62 agency;
- 31-63 (7) the Texas Workforce Commission, appointed by the
 31-64 executive director [~~presiding officer~~] of that agency;
- 31-65 (8) the Texas Workers' Compensation Commission,
 31-66 appointed by the presiding officer of that agency;
- 31-67 (9) the Legislative Budget Board, appointed by the
 31-68 presiding officer of the board;
- 31-69 (10) the State Agency Coordinating Council, appointed

32-1 by the presiding officer of that entity;
 32-2 (11) the Texas Small State Agency Task Force,
 32-3 appointed by the presiding officer of that entity;
 32-4 (12) the Texas State Personnel Administrators
 32-5 Association, appointed by the presiding officer of that entity; and
 32-6 (13) each eligible state employee organization
 32-7 certified by the comptroller under Section 403.0165, who must be
 32-8 the chief elected representative of the organization.

32-9 SECTION 9.09. Subsection (a), Section 2162.051, Government
 32-10 Code, is amended to read as follows:

32-11 (a) The State Council on Competitive Government consists of
 32-12 the following individuals or the individuals they designate:

- 32-13 (1) the governor;
- 32-14 (2) the lieutenant governor;
- 32-15 (3) the comptroller;
- 32-16 (4) the speaker of the house of representatives;
- 32-17 (5) the commission's presiding officer; and
- 32-18 (6) the commissioner of the Texas Workforce
 32-19 [~~Employment~~] Commission representing labor.

32-20 SECTION 9.10. Subsection (c), Section 115.002, Human
 32-21 Resources Code, is amended to read as follows:

- 32-22 (c) The ex officio members are:
- 32-23 (1) the executive director [~~chair~~] of the Texas
 32-24 Workforce [~~Employment~~] Commission;
 - 32-25 (2) the commissioner of the Texas Rehabilitation
 32-26 Commission;
 - 32-27 (3) the executive director of the Texas Commission for
 32-28 the Blind;
 - 32-29 (4) the executive director of the Texas Commission for
 32-30 the Deaf and Hard of Hearing; and
 - 32-31 (5) other officials designated by the governor who
 32-32 serve with other state agencies that provide services to persons
 32-33 with disabilities.

32-34 SECTION 9.11. Subsection (a), Section 61.005, Labor Code,
 32-35 is amended to read as follows:

- 32-36 (a) In the case of contumacy or other refusal by a person to
 32-37 obey a subpoena issued by [~~a member of~~] the commission or an
 32-38 authorized representative of the commission to that person, any
 32-39 county or district court of this state in the jurisdiction of which
 32-40 the inquiry is carried on or in the jurisdiction of which the person
 32-41 guilty of contumacy or refusal to obey is found, resides, or
 32-42 transacts business has jurisdiction, on application by the
 32-43 commission or its representative, to issue to the person an order
 32-44 requiring the person to appear before [~~a commissioner,~~]
 32-45 the commission[~~7~~] or its authorized representative to:
- 32-46 (1) produce evidence if so ordered; or
 - 32-47 (2) testify regarding the matter under investigation
 32-48 or in question.

32-49 SECTION 9.12. Subsection (c), Section 62.107, Labor Code,
 32-50 is amended to read as follows:

32-51 (c) The commissioner shall furnish a copy of each order
 32-52 establishing a piece rate to the Texas Workforce [~~Employment~~]
 32-53 Commission.

32-54 SECTION 9.13. Subdivision (8), Section 201.011, Labor Code,
 32-55 is amended to read as follows:

32-56 (8) "Commission" means the Texas Workforce
 32-57 [~~Employment~~] Commission.

32-58 SECTION 9.14. Subsections (a) and (b), Section 306.007,
 32-59 Labor Code, are amended to read as follows:

32-60 (a) To assist in the reintegration into the labor force of
 32-61 persons formerly sentenced to the institutional division or the
 32-62 state jail division, the commission through Project RIO shall
 32-63 provide:

- 32-64 (1) to those persons:
 - 32-65 (A) information from local workforce development
 32-66 boards on job training and employment referral services;
 - 32-67 (B) information from the Texas Commission on
 32-68 Alcohol and Drug Abuse on substance abuse treatment services;
 - 32-69 (C) information from the Texas Department of

33-1 Housing and Community Affairs on housing services;
33-2 (D) information from the Texas Veterans
33-3 Commission on services for veterans; and

33-4 (E) information [~~from the Texas Department of~~
33-5 ~~Human Services~~] on tax refund voucher programs under Subchapter H
33-6 [~~D~~], Chapter 301 [~~31, Human Resources Code~~]; and

33-7 (2) to the employers and potential employers of those
33-8 persons:

33-9 (A) information from the Texas Department of
33-10 Economic Development [~~Commerce~~] on the enterprise zone program [~~and~~
33-11 ~~smart jobs fund program~~]; and

33-12 (B) information from local workforce development
33-13 boards on services listed in Section 2308.304, Government Code.

33-14 (b) The commission shall adopt a memorandum of
33-15 understanding with each of the following agencies that establishes
33-16 the respective responsibilities of the commission and the agencies
33-17 in providing information described by Subsection (a) to persons
33-18 formerly sentenced to the institutional division or the state jail
33-19 division of the Texas Department of Criminal Justice, to employers
33-20 or potential employers of those persons, and to local workforce
33-21 development boards:

33-22 (1) the Texas Commission on Alcohol and Drug Abuse;

33-23 (2) the Texas Department of Housing and Community
33-24 Affairs;

33-25 (3) the Texas Veterans Commission;

33-26 (4) the Texas Department of Human Services;

33-27 (5) the Texas Department of Economic Development
33-28 [~~Commerce~~]; and

33-29 (6) the Council on Workforce and Economic
33-30 Competitiveness.

33-31 ARTICLE 10. EFFECTIVE DATE

33-32 SECTION 10.01. Except as otherwise provided by this Act,
33-33 this Act takes effect September 1, 2003.

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