

By: Ellis

S.B. No. 1952

Substitute the following for S.B. No. 1952:

By: Allen

C.S.S.B. No. 1952

A BILL TO BE ENTITLED

AN ACT

relating to the reorganization of, efficiency in, and other reform measures applying to state government.

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

PART 1. GENERAL MATTERS AFFECTING STATE

AGENCIES, INCLUDING CONSOLIDATION OF FUNCTIONS AND ENTITIES

ARTICLE 1A. ADJUTANT GENERAL

SECTION 1A.01. Section 431.022(b), Government Code, is amended to read as follows:

(b) The adjutant general is appointed by the governor, with the advice and consent of the senate if in session, to a term expiring February 1 of each odd-numbered year. To be qualified for appointment as adjutant general a person must:

(1) when appointed be serving as a federally recognized officer of not less than field grade in the Texas National Guard;

(2) have previously served on active duty or active duty for training with the army, ~~or~~ air force, or marines; and

(3) have completed at least 10 years' service as a federally recognized reserve or active duty commissioned officer with an active unit of the United States armed forces, the National Guard, or the Texas National Guard, including at least five years with the Texas National Guard.

ARTICLE 1B. USE OF HEALTH REIMBURSEMENT ARRANGEMENTS

SECTION 1B.01. Chapter 3, Insurance Code, is amended by adding Subchapter M to read as follows:

SUBCHAPTER M. HEALTH REIMBURSEMENT ARRANGEMENTS

Art. 3.99. HEALTH REIMBURSEMENT ARRANGEMENTS.

Notwithstanding any other provision of law, any agency of this state that provides a program of health insurance or health benefits shall provide that program in accordance with the revenue ruling of the United States Internal Revenue Service that authorizes health reimbursement arrangements (Rev. Ru. 2002-41) and may adopt appropriate rules to implement the program in accordance with this article.

ARTICLE 1C. PUBLIC INFORMATION

SECTION 1C.01. Subchapter C, Chapter 401, Government Code, is amended by adding Section 401.0446 to read as follows:

Sec. 401.0446. BUDGETARY WORKING PAPERS. (a) In this section "budgetary working paper" means information, other than a uniform budget estimate form, that is created, received, considered, or otherwise used by a governmental body in estimating revenues or in considering or preparing a draft or final biennial state fiscal budget, including a draft, a working paper, supporting material, research material, or an internal or external communication relating to that budget.

(b) A budgetary working paper that is collected, assembled, or maintained by the governor, lieutenant governor, comptroller, speaker of the house of representatives, Legislative Budget Board, senate finance committee, senate state affairs committee, house appropriations committee, or house ways and means committee, is

1 excepted from required public disclosure under Chapter 552 or any
2 other law of this state. Section 552.022 does not apply to
3 information excepted from required public disclosure by this
4 section.

5 ARTICLE 1D. MEMBERS OF TEXAS WORKERS' COMPENSATION COMMISSION

6 SECTION 1D.01. Section 402.002(a), Labor Code, is amended
7 to read as follows:

8 (a) Members of the commission hold office for two-year
9 ~~[staggered six-year]~~ terms~~[, with the terms of one member~~
10 ~~representing employers and one member representing wage earners]~~
11 expiring on February 1 of each odd-numbered year.

12 SECTION 1D.02. The current terms of the members of the Texas
13 Workers' Compensation Commission expire on February 1, 2005.

14 ARTICLE 1E. MEMBERS OF BOARD OF PARDONS AND PAROLES

15 POLICY BOARD

16 SECTION 1E.01. Sections 508.036(a) and (b), Government
17 Code, are amended to read as follows:

18 (a) The governor shall designate seven ~~[six]~~ members of the
19 board to serve as the Board of Pardons and Paroles Policy Board.
20 The governor shall designate the presiding officer of the board as
21 one of the seven ~~[six]~~ members of the policy board, and the
22 presiding officer of the board shall serve as presiding officer of
23 the policy board. Service on the policy board is an additional duty
24 of office for members appointed to the policy board.

25 (b) Members of the board designated as members of the policy
26 board serve on the policy board for six-year terms that are
27 concurrent with their six-year terms on the board, with the service

1 of two or three members expiring February 1 of each odd-numbered
2 year.

3 SECTION 1E.02. As soon as possible on or after September 1,
4 2003, the governor shall appoint an additional member to the Board
5 of Pardons and Paroles Policy Board under Section 508.036(a),
6 Government Code, as amended by this Act, for a term expiring
7 February 1, 2009.

8 ARTICLE 1F. MEMBERS OF TEXAS VETERANS COMMISSION

9 SECTION 1F.01. Section 434.003(c), Government Code, is
10 amended to read as follows:

11 (c) A person having a less than honorable discharge from
12 military service is not eligible to be a member. No two members may
13 reside in the same senatorial district[, ~~and not more than one~~
14 ~~member may be from a senatorial district composed of a single~~
15 ~~county~~].

16 [ARTICLE 1G. RESERVED]

17 ARTICLE 1H. EXECUTIVE ORDERS RELATING TO
18 STATE AGENCIES

19 SECTION 1H.01. Subchapter F, Chapter 401, Government Code,
20 is amended by adding Section 401.105 to read as follows:

21 Sec. 401.105. EXECUTIVE ORDERS TO MAKE CERTAIN CHANGES TO
22 STATE AGENCIES FOR EFFICIENT ADMINISTRATION AND OPERATIONS. (a)
23 In this section, "state agency" includes an institution of higher
24 education as defined by Section 61.003, Education Code, other than
25 a public junior college. The term does not include a state agency
26 that is headed by a statewide-elected official.

27 (b) The governor may issue an executive order to change the

1 organization and operations of a state agency in the executive
2 branch of state government if:

3 (1) the governor considers the change to be necessary
4 for efficient administration; and

5 (2) the change is not inconsistent or incompatible
6 with the Texas Constitution or a state statute.

7 (c) An executive order issued by the governor under this
8 section has the force and effect of law.

9 (d) The governor may amend or rescind an executive order
10 issued under this section at any time.

11 ARTICLE 11. TEXAS HIGHER EDUCATION COORDINATING BOARD

12 SECTION 11.01. Section 61.022, Education Code, is amended
13 to read as follows:

14 Sec. 61.022. MEMBERS OF BOARD; APPOINTMENT; TERMS OF
15 OFFICE. The board shall consist of nine ~~[18]~~ members appointed by
16 the governor so as to provide representation from all areas of the
17 state with the advice and consent of the senate, and as the
18 constitution provides. Members of the board serve staggered
19 six-year terms. The terms of one-third of the members expire August
20 31 of each odd-numbered year. ~~[Of the initial appointments to the~~
21 ~~board six shall be for terms which shall expire August 31, 1967, six~~
22 ~~for terms which shall expire August 31, 1969, and six for terms~~
23 ~~which shall expire on August 31, 1971, or at such time as their~~
24 ~~successors are appointed and have qualified. Thereafter, the~~
25 ~~governor shall appoint members for terms of six years. Members of~~
26 ~~the Texas Commission on Higher Education are eligible for~~
27 ~~appointment to the board.]~~ No member may be employed

1 professionally for remuneration in the field of education during
2 his term of office.

3 SECTION 1I.02. To achieve an orderly transition from 18 to 9
4 positions on the Texas Higher Education Coordinating Board, the
5 governor on August 31, 2003, or September 1, 2003, shall appoint
6 only three persons to the coordinating board for terms expiring on
7 August 31, 2009. On, or as soon as possible after, August 31, 2005,
8 the governor shall appoint only four members to the coordinating
9 board for terms expiring on August 31, 2011. On, or as soon as
10 possible after, August 31, 2007, the governor shall appoint only
11 two members to the coordinating board for terms expiring on August
12 31, 2013. As terms on the coordinating board expire on and after
13 August 31, 2009, the governor shall appoint three members to the
14 coordinating board in accordance with Section 61.022, Education
15 Code, as amended by this Act.

16 ARTICLE 1J. ABOLITION OF CERTAIN AGENCIES AND

17 TRANSFER OF POWERS AND DUTIES TO

18 TEXAS DEPARTMENT OF LICENSING AND REGULATION

19 SECTION 1J.01. Section 51.052(a), Occupations Code, is
20 amended to read as follows:

21 (a) The commission consists of seven [~~six~~] members
22 appointed by the governor with the advice and consent of the senate.

23 SECTION 1J.02. Section 51.055(a), Occupations Code, is
24 amended to read as follows:

25 (a) Members of the commission serve staggered six-year
26 terms. The terms of two or three members expire on February 1 of
27 each odd-numbered year.

1 SECTION 1J.03. Section 651.001, Occupations Code, is
2 amended by adding Subdivision (3-a) to read as follows:

3 (3-a) "Department" means the Texas Department of
4 Licensing and Regulation.

5 SECTION 1J.04. Subchapter A, Chapter 651, Occupations Code,
6 is amended by adding Sections 651.004 and 651.005 to read as
7 follows:

8 Sec. 651.004. TEXAS DEPARTMENT OF LICENSING AND REGULATION.

9 (a) The department shall administer this chapter. If in
10 administering this chapter there is a conflict between a provision
11 of this chapter and a provision of Chapter 51, the provision of
12 Chapter 51 controls.

13 (b) A reference in this chapter or other law to the Texas
14 Funeral Service Commission means the department.

15 Sec. 651.005. ADVISORY COMMITTEE. The governor shall
16 appoint an advisory committee of seven persons to advise the
17 department in administering this chapter.

18 SECTION 1J.05. Section 1071.002, Occupations Code, is
19 amended by adding Subdivision (3-a) to read as follows:

20 (3-a) "Department" means the Texas Department of
21 Licensing and Regulation.

22 SECTION 1J.06. Subchapter A, Chapter 1071, Occupations
23 Code, is amended by adding Sections 1071.005 and 1071.006 to read as
24 follows:

25 Sec. 1071.005. TEXAS DEPARTMENT OF LICENSING AND
26 REGULATION. (a) The department shall administer this chapter. If
27 in administering this chapter there is a conflict between a

1 provision of this chapter and a provision of Chapter 51, the
2 provision of Chapter 51 controls.

3 (b) A reference in this chapter or other law to the Texas
4 Board of Professional Land Surveying means the department.

5 Sec. 1071.006. ADVISORY COMMITTEE. The governor shall
6 appoint an advisory committee of seven persons to advise the
7 department in administering this chapter.

8 SECTION 1J.07. Section 1201.003(7), Occupations Code, is
9 amended to read as follows:

10 (7) "Department" means the Texas Department of
11 Licensing and Regulation [~~Housing and Community Affairs~~].

12 SECTION 1J.08. Subchapter A, Chapter 1201, Occupations
13 Code, is amended by adding Section 1201.009 to read as follows:

14 Sec. 1201.009. ADVISORY COMMITTEE. The governor shall
15 appoint an advisory committee of seven persons to advise the
16 department in administering this chapter.

17 SECTION 1J.09. Section 1301.002(1), Occupations Code, is
18 amended to read as follows:

19 (1) "Department" [~~"Board"~~] means the Texas Department
20 of Licensing and Regulation [~~State Board of Plumbing Examiners~~].

21 SECTION 1J.10. Subchapter A, Chapter 1301, Occupations
22 Code, is amended by adding Sections 1301.004 and 1301.005 to read as
23 follows:

24 Sec. 1301.004. TEXAS DEPARTMENT OF LICENSING AND
25 REGULATION. (a) The department shall administer this chapter. If
26 in administering this chapter there is a conflict between a
27 provision of this chapter and a provision of Chapter 51, the

1 provision of Chapter 51 controls.

2 (b) A reference in this chapter to the board or a reference
3 in other law to the Texas State Board of Plumbing Examiners means
4 the department.

5 Sec. 1301.005. ADVISORY COMMITTEE. The governor shall
6 appoint an advisory committee of seven persons to advise the
7 department in administering this chapter.

8 SECTION 1J.11. Section 1601.001, Occupations Code, is
9 amended by adding Subdivision (4-a) to read as follows:

10 (4-a) "Department" means the Texas Department of
11 Licensing and Regulation.

12 SECTION 1J.12. Subchapter A, Chapter 1601, Occupations
13 Code, is amended by adding Sections 1601.005 and 1601.006 to read as
14 follows:

15 Sec. 1601.005. TEXAS DEPARTMENT OF LICENSING AND
16 REGULATION. (a) The department shall administer this chapter. If
17 in administering this chapter there is a conflict between a
18 provision of this chapter and a provision of Chapter 51, the
19 provision of Chapter 51 controls.

20 (b) A reference in this chapter to the board or a reference
21 in other law to the State Board of Barber Examiners means the
22 department.

23 Sec. 1601.006. ADVISORY COMMITTEE. The governor shall
24 appoint an advisory committee of seven persons to advise the
25 department in administering this chapter.

26 SECTION 1J.13. Section 1602.001, Occupations Code, is
27 amended by adding Subdivision (1-a) to read as follows:

1 (1-a) "Department" means the Texas Department of
2 Licensing and Regulation.

3 SECTION 1J.14. Subchapter A, Chapter 1602, Occupations
4 Code, is amended by adding Sections 1602.005 and 1602.006 to read as
5 follows:

6 Sec. 1602.005. TEXAS DEPARTMENT OF LICENSING AND
7 REGULATION. (a) The department shall administer this chapter. If
8 in administering this chapter there is a conflict between a
9 provision of this chapter and a provision of Chapter 51, the
10 provision of Chapter 51 controls.

11 (b) A reference in this chapter to the commission or a
12 reference in other law to the Texas Cosmetology Commission means
13 the department.

14 Sec. 1602.006. ADVISORY COMMITTEE. The governor shall
15 appoint an advisory committee of seven persons to advise the
16 department in administering this chapter.

17 SECTION 1J.15. Section 1951.002, Occupations Code, is
18 amended by adding Subdivision (6-a) to read as follows:

19 (6-a) "Department" means the Texas Department of
20 Licensing and Regulation.

21 SECTION 1J.16. Subchapter A, Chapter 1951, Occupations
22 Code, is amended by adding Sections 1951.008 and 1951.009 to read as
23 follows:

24 Sec. 1951.008. TEXAS DEPARTMENT OF LICENSING AND
25 REGULATION. (a) The department shall administer this chapter. If
26 in administering this chapter there is a conflict between a
27 provision of this chapter and a provision of Chapter 51, the

1 provision of Chapter 51 controls.

2 (b) A reference in this chapter to the board or a reference
3 in other law to the Texas Structural Pest Control Board means the
4 department.

5 Sec. 1951.009. ADVISORY COMMITTEE. The governor shall
6 appoint an advisory committee of seven persons to advise the
7 department in administering this chapter.

8 SECTION 1J.17. Section 1.02(1), Texas Geoscience Practice
9 Act (Article 3271b, Vernon's Texas Civil Statutes), is amended to
10 read as follows:

11 (1) "Department" ["Board"] means the Texas Department
12 of Licensing and Regulation [Board of Professional Geoscientists].

13 SECTION 1J.18. Subchapter A, Texas Geoscience Practice Act
14 (Article 3271b, Vernon's Texas Civil Statutes), is amended by
15 adding Sections 1.05 and 1.06 to read as follows:

16 Sec. 1.05. TEXAS DEPARTMENT OF LICENSING AND REGULATION.

17 (a) The department shall administer this Act. If in administering
18 this Act there is a conflict between a provision of this Act and a
19 provision of Chapter 51, Occupations Code, the provision of Chapter
20 51 controls.

21 (b) A reference in this Act to the board or a reference in
22 other law to the Texas Board of Professional Geoscientists means
23 the department.

24 Sec. 1.06. ADVISORY COMMITTEE. The governor shall appoint
25 an advisory committee of seven persons to advise the department in
26 administering this Act.

27 SECTION 1J.19. On September 1, 2003, the following laws are

repealed:

(1) Sections 651.001(2), 651.002, and 651.153, Occupations Code;

(2) Subchapters B, C, and E, Chapter 651, Occupations Code;

(3) Sections 1071.002(1) and 1071.003, Occupations Code;

(4) Subchapters B, C, and E, Chapter 1071, Occupations Code;

(5) Sections 1301.003, 1301.204, 1301.252, 1301.301, and 1301.303, Occupations Code;

(6) Subchapter C, Chapter 1301, Occupations Code;

(7) Sections 1601.001(3), 1601.004, and 1601.153, Occupations Code;

(8) Subchapters B, C, and E, Chapter 1601, Occupations Code;

(9) Sections 1602.001(1), 1602.004, and 1602.152, Occupations Code;

(10) Subchapters B, C, and E, Chapter 1602, Occupations Code;

(11) Sections 1951.002(2), 1951.007, and 1951.206, Occupations Code;

(12) Subchapters C, D, and F, Chapter 1951, Occupations Code;

(13) Sections 1.03, 3.01, 3.02(a), 3.03, 3.04, 3.05, and 3.06, Texas Geoscience Practice Act (Article 3271b, Vernon's Texas Civil Statutes); and

1 (14) Subchapters B and E, Texas Geoscience Practice
2 Act (Article 3271b, Vernon's Texas Civil Statutes).

3 SECTION 1J.20. Not later than November 1, 2003, the
4 governor shall appoint an additional member to serve on the Texas
5 Commission of Licensing and Regulation, as required by Section
6 51.052(a), Occupations Code, as amended by this article. The new
7 member's term shall expire on February 1, 2007.

8 SECTION 1J.21. On September 1, 2003:

9 (1) all functions and activities relating to Chapter
10 651, Occupations Code, performed by the Texas Funeral Service
11 Commission immediately before that date are transferred to the
12 Texas Department of Licensing and Regulation;

13 (2) a rule or form adopted by the Texas Funeral Service
14 Commission that relates to Chapter 651, Occupations Code, is a rule
15 or form of the Texas Department of Licensing and Regulation and
16 remains in effect until amended or replaced by that department;

17 (3) a reference in law or an administrative rule to the
18 Texas Funeral Service Commission that relates to Chapter 651,
19 Occupations Code, means the Texas Department of Licensing and
20 Regulation;

21 (4) a complaint, investigation, or other proceeding
22 before the Texas Funeral Service Commission that is related to
23 Chapter 651, Occupations Code, is transferred without change in
24 status to the Texas Department of Licensing and Regulation, and the
25 Texas Department of Licensing and Regulation assumes, as
26 appropriate and without a change in status, the position of the
27 Texas Funeral Service Commission in an action or proceeding to

1 which the Texas Funeral Service Commission is a party;

2 (5) all money, contracts, leases, property, and
3 obligations of the Texas Funeral Service Commission related to
4 Chapter 651, Occupations Code, are transferred to the Texas
5 Department of Licensing and Regulation;

6 (6) all property in the custody of the Texas Funeral
7 Service Commission related to Chapter 651, Occupations Code, is
8 transferred to the Texas Department of Licensing and Regulation;
9 and

10 (7) the unexpended and unobligated balance of any
11 money appropriated by the legislature for the Texas Funeral Service
12 Commission related to Chapter 651, Occupations Code, is transferred
13 to the Texas Department of Licensing and Regulation.

14 SECTION 1J.22. On September 1, 2003:

15 (1) all functions and activities relating to Chapter
16 1071, Occupations Code, performed by the Texas Board of
17 Professional Land Surveying immediately before that date are
18 transferred to the Texas Department of Licensing and Regulation;

19 (2) a rule or form adopted by the Texas Board of
20 Professional Land Surveying that relates to Chapter 1071,
21 Occupations Code, is a rule or form of the Texas Department of
22 Licensing and Regulation and remains in effect until amended or
23 replaced by that department;

24 (3) a reference in law or an administrative rule to the
25 Texas Board of Professional Land Surveying that relates to Chapter
26 1071, Occupations Code, means the Texas Department of Licensing and
27 Regulation;

1 (4) a complaint, investigation, or other proceeding
2 before the Texas Board of Professional Land Surveying that is
3 related to Chapter 1071, Occupations Code, is transferred without
4 change in status to the Texas Department of Licensing and
5 Regulation, and the Texas Department of Licensing and Regulation
6 assumes, as appropriate and without a change in status, the
7 position of the Texas Board of Professional Land Surveying in an
8 action or proceeding to which the Texas Board of Professional Land
9 Surveying is a party;

10 (5) all money, contracts, leases, property, and
11 obligations of the Texas Board of Professional Land Surveying
12 related to Chapter 1071, Occupations Code, are transferred to the
13 Texas Department of Licensing and Regulation;

14 (6) all property in the custody of the Texas Board of
15 Professional Land Surveying related to Chapter 1071, Occupations
16 Code, is transferred to the Texas Department of Licensing and
17 Regulation; and

18 (7) the unexpended and unobligated balance of any
19 money appropriated by the legislature for the Texas Board of
20 Professional Land Surveying related to Chapter 1071, Occupations
21 Code, is transferred to the Texas Department of Licensing and
22 Regulation.

23 SECTION 1J.23. On September 1, 2003:

24 (1) all functions and activities relating to Chapter
25 1201, Occupations Code, performed by the Texas Department of
26 Housing and Community Affairs immediately before that date are
27 transferred to the Texas Department of Licensing and Regulation;

1 (2) a rule or form adopted by the Texas Department of
2 Housing and Community Affairs that relates to Chapter 1201,
3 Occupations Code, is a rule or form of the Texas Department of
4 Licensing and Regulation and remains in effect until amended or
5 replaced by that department;

6 (3) a reference in law or an administrative rule to the
7 Texas Department of Housing and Community Affairs that relates to
8 Chapter 1201, Occupations Code, means the Texas Department of
9 Licensing and Regulation;

10 (4) a complaint, investigation, or other proceeding
11 before the Texas Department of Housing and Community Affairs that
12 is related to Chapter 1201, Occupations Code, is transferred
13 without change in status to the Texas Department of Licensing and
14 Regulation, and the Texas Department of Licensing and Regulation
15 assumes, as appropriate and without a change in status, the
16 position of the Texas Department of Housing and Community Affairs
17 in an action or proceeding to which the Texas Department of Housing
18 and Community Affairs is a party;

19 (5) all money, contracts, leases, property, and
20 obligations of the Texas Department of Housing and Community
21 Affairs related to Chapter 1201, Occupations Code, are transferred
22 to the Texas Department of Licensing and Regulation;

23 (6) all property in the custody of the Texas
24 Department of Housing and Community Affairs related to Chapter
25 1201, Occupations Code, is transferred to the Texas Department of
26 Licensing and Regulation; and

27 (7) the unexpended and unobligated balance of any

1 money appropriated by the legislature for the Texas Department of
2 Housing and Community Affairs related to Chapter 1201, Occupations
3 Code, is transferred to the Texas Department of Licensing and
4 Regulation.

5 SECTION 1J.24. On September 1, 2003:

6 (1) all functions and activities relating to Chapter
7 1301, Occupations Code, performed by the Texas State Board of
8 Plumbing Examiners immediately before that date are transferred to
9 the Texas Department of Licensing and Regulation;

10 (2) a rule or form adopted by the Texas State Board of
11 Plumbing Examiners that relates to Chapter 1301, Occupations Code,
12 is a rule or form of the Texas Department of Licensing and
13 Regulation and remains in effect until amended or replaced by that
14 department;

15 (3) a reference in law or an administrative rule to the
16 Texas State Board of Plumbing Examiners that relates to Chapter
17 1301, Occupations Code, means the Texas Department of Licensing and
18 Regulation;

19 (4) a complaint, investigation, or other proceeding
20 before the Texas State Board of Plumbing Examiners that is related
21 to Chapter 1301, Occupations Code, is transferred without change in
22 status to the Texas Department of Licensing and Regulation, and the
23 Texas Department of Licensing and Regulation assumes, as
24 appropriate and without a change in status, the position of the
25 Texas State Board of Plumbing Examiners in an action or proceeding
26 to which the Texas State Board of Plumbing Examiners is a party;

27 (5) all money, contracts, leases, property, and

1 obligations of the Texas State Board of Plumbing Examiners related
2 to Chapter 1301, Occupations Code, are transferred to the Texas
3 Department of Licensing and Regulation;

4 (6) all property in the custody of the Texas State
5 Board of Plumbing Examiners related to Chapter 1301, Occupations
6 Code, is transferred to the Texas Department of Licensing and
7 Regulation; and

8 (7) the unexpended and unobligated balance of any
9 money appropriated by the legislature for the Texas State Board of
10 Plumbing Examiners related to Chapter 1301, Occupations Code, is
11 transferred to the Texas Department of Licensing and Regulation.

12 SECTION 1J.25. On September 1, 2003:

13 (1) all functions and activities relating to Chapter
14 1601, Occupations Code, performed by the State Board of Barber
15 Examiners immediately before that date are transferred to the Texas
16 Department of Licensing and Regulation;

17 (2) a rule or form adopted by the State Board of Barber
18 Examiners that relates to Chapter 1601, Occupations Code, is a rule
19 or form of the Texas Department of Licensing and Regulation and
20 remains in effect until amended or replaced by that department;

21 (3) a reference in law or an administrative rule to the
22 State Board of Barber Examiners that relates to Chapter 1601,
23 Occupations Code, means the Texas Department of Licensing and
24 Regulation;

25 (4) a complaint, investigation, or other proceeding
26 before the State Board of Barber Examiners that is related to
27 Chapter 1601, Occupations Code, is transferred without change in

1 status to the Texas Department of Licensing and Regulation, and the
2 Texas Department of Licensing and Regulation assumes, as
3 appropriate and without a change in status, the position of the
4 State Board of Barber Examiners in an action or proceeding to which
5 the State Board of Barber Examiners is a party;

6 (5) all money, contracts, leases, property, and
7 obligations of the State Board of Barber Examiners related to
8 Chapter 1601, Occupations Code, are transferred to the Texas
9 Department of Licensing and Regulation;

10 (6) all property in the custody of the State Board of
11 Barber Examiners related to Chapter 1601, Occupations Code, is
12 transferred to the Texas Department of Licensing and Regulation;
13 and

14 (7) the unexpended and unobligated balance of any
15 money appropriated by the legislature for the State Board of Barber
16 Examiners related to Chapter 1601, Occupations Code, is transferred
17 to the Texas Department of Licensing and Regulation.

18 SECTION 1J.26. On September 1, 2003:

19 (1) all functions and activities relating to Chapter
20 1602, Occupations Code, performed by the Texas Cosmetology
21 Commission immediately before that date are transferred to the
22 Texas Department of Licensing and Regulation;

23 (2) a rule or form adopted by the Texas Cosmetology
24 Commission that relates to Chapter 1602, Occupations Code, is a
25 rule or form of the Texas Department of Licensing and Regulation and
26 remains in effect until amended or replaced by that department;

27 (3) a reference in law or an administrative rule to the

1 Texas Cosmetology Commission that relates to Chapter 1602,
2 Occupations Code, means the Texas Department of Licensing and
3 Regulation;

4 (4) a complaint, investigation, or other proceeding
5 before the Texas Cosmetology Commission that is related to Chapter
6 1602, Occupations Code, is transferred without change in status to
7 the Texas Department of Licensing and Regulation, and the Texas
8 Department of Licensing and Regulation assumes, as appropriate and
9 without a change in status, the position of the Texas Cosmetology
10 Commission in an action or proceeding to which the Texas
11 Cosmetology Commission is a party;

12 (5) all money, contracts, leases, property, and
13 obligations of the Texas Cosmetology Commission related to Chapter
14 1602, Occupations Code, are transferred to the Texas Department of
15 Licensing and Regulation;

16 (6) all property in the custody of the Texas
17 Cosmetology Commission related to Chapter 1602, Occupations Code,
18 is transferred to the Texas Department of Licensing and Regulation;
19 and

20 (7) the unexpended and unobligated balance of any
21 money appropriated by the legislature for the Texas Cosmetology
22 Commission related to Chapter 1602, Occupations Code, is
23 transferred to the Texas Department of Licensing and Regulation.

24 SECTION 1J.27. On September 1, 2003:

25 (1) all functions and activities relating to Chapter
26 1951, Occupations Code, performed by the Texas Structural Pest
27 Control Board immediately before that date are transferred to the

1 Texas Department of Licensing and Regulation;

2 (2) a rule or form adopted by the Texas Structural Pest
3 Control Board that relates to Chapter 1951, Occupations Code, is a
4 rule or form of the Texas Department of Licensing and Regulation and
5 remains in effect until amended or replaced by that department;

6 (3) a reference in law or an administrative rule to the
7 Texas Structural Pest Control Board that relates to Chapter 1951,
8 Occupations Code, means the Texas Department of Licensing and
9 Regulation;

10 (4) a complaint, investigation, or other proceeding
11 before the Texas Structural Pest Control Board that is related to
12 Chapter 1951, Occupations Code, is transferred without change in
13 status to the Texas Department of Licensing and Regulation, and the
14 Texas Department of Licensing and Regulation assumes, as
15 appropriate and without a change in status, the position of the
16 Texas Structural Pest Control Board in an action or proceeding to
17 which the Texas Structural Pest Control Board is a party;

18 (5) all money, contracts, leases, property, and
19 obligations of the Texas Structural Pest Control Board related to
20 Chapter 1951, Occupations Code, are transferred to the Texas
21 Department of Licensing and Regulation;

22 (6) all property in the custody of the Texas
23 Structural Pest Control Board related to Chapter 1951, Occupations
24 Code, is transferred to the Texas Department of Licensing and
25 Regulation; and

26 (7) the unexpended and unobligated balance of any
27 money appropriated by the legislature for the Texas Structural Pest

1 Control Board related to Chapter 1951, Occupations Code, is
2 transferred to the Texas Department of Licensing and Regulation.

3 SECTION 1J.28. On September 1, 2003:

4 (1) all functions and activities relating to the Texas
5 Geoscience Practice Act (Article 3271b, Vernon's Texas Civil
6 Statutes) performed by the Texas Board of Professional
7 Geoscientists immediately before that date are transferred to the
8 Texas Department of Licensing and Regulation;

9 (2) a rule or form adopted by the Texas Board of
10 Professional Geoscientists that relates to the Texas Geoscience
11 Practice Act (Article 3271b, Vernon's Texas Civil Statutes) is a
12 rule or form of the Texas Department of Licensing and Regulation and
13 remains in effect until amended or replaced by that department;

14 (3) a reference in law or an administrative rule to the
15 Texas Board of Professional Geoscientists that relates to the Texas
16 Geoscience Practice Act (Article 3271b, Vernon's Texas Civil
17 Statutes) means the Texas Department of Licensing and Regulation;

18 (4) a complaint, investigation, or other proceeding
19 before the Texas Board of Professional Geoscientists that is
20 related to the Texas Geoscience Practice Act (Article 3271b,
21 Vernon's Texas Civil Statutes) is transferred without change in
22 status to the Texas Department of Licensing and Regulation, and the
23 Texas Department of Licensing and Regulation assumes, as
24 appropriate and without a change in status, the position of the
25 Texas Board of Professional Geoscientists in an action or
26 proceeding to which the Texas Board of Professional Geoscientists
27 is a party;

1 (5) all money, contracts, leases, property, and
2 obligations of the Texas Board of Professional Geoscientists
3 related to the Texas Geoscience Practice Act (Article 3271b,
4 Vernon's Texas Civil Statutes) are transferred to the Texas
5 Department of Licensing and Regulation;

6 (6) all property in the custody of the Texas Board of
7 Professional Geoscientists related to the Texas Geoscience
8 Practice Act (Article 3271b, Vernon's Texas Civil Statutes) is
9 transferred to the Texas Department of Licensing and Regulation;
10 and

11 (7) the unexpended and unobligated balance of any
12 money appropriated by the legislature for the Texas Board of
13 Professional Geoscientists related to the Texas Geoscience
14 Practice Act (Article 3271b, Vernon's Texas Civil Statutes) is
15 transferred to the Texas Department of Licensing and Regulation.

16 SECTION 1J.29. Not later than November 1, 2003, the
17 governor shall appoint the advisory committees required by Sections
18 651.005, 1071.006, 1201.009, 1301.005, 1601.006, 1602.006, and
19 1951.009, Occupations Code, as added by this Act, and Section 1.06,
20 Texas Geoscience Practice Act (Article 3271b, Vernon's Texas Civil
21 Statutes), as added by this Act.

22 ARTICLE 1K. ABOLITION OF OFFICE OF
23 STATE-FEDERAL RELATIONS

24 SECTION 1K.01. Sections 751.001(1) and (4), Government
25 Code, are amended to read as follows:

26 (1) "Board" means the [~~Office of~~] State-Federal
27 Relations Advisory [~~Policy~~] Board.

1 (4) "State agency" means a state board, commission,
2 department, institution, or officer in the executive branch of
3 state government having statewide jurisdiction, including a state
4 college or university.

5 SECTION 1K.02. Section 751.002, Government Code, is amended
6 to read as follows:

7 Sec. 751.002. OFFICE OF STATE-FEDERAL RELATIONS. ~~[(a)]~~
8 The Office of State-Federal Relations is a division of the office of
9 the governor ~~[an agency of the state and operates within the~~
10 ~~executive department.~~

11 ~~[(b) The office is subject to the administrative procedure~~
12 ~~law, Chapter 2001].~~

13 SECTION 1K.03. The heading to Section 751.004, Government
14 Code, is amended to read as follows:

15 Sec. 751.004. APPOINTMENT ~~[AND TERM]~~ OF DIRECTOR.

16 SECTION 1K.04. Section 751.004(a), Government Code, is
17 amended to read as follows:

18 (a) The governor~~[, with the advice and consent of the~~
19 ~~senate,~~] shall appoint a director of the office.

20 SECTION 1K.05. Section 751.005(b), Government Code, is
21 amended to read as follows:

22 (b) The director shall:

23 (1) help coordinate state and federal programs dealing
24 with the same subject;

25 (2) inform the governor, the lieutenant governor, and
26 the speaker of the house of representatives ~~[legislature]~~ of
27 federal programs that may be carried out in the state or that affect

1 state programs;

2 (3) provide federal agencies and the United States
3 Congress with information about state policy and state conditions
4 on matters that concern the federal government;

5 (4) regularly provide the governor, the lieutenant
6 governor, and the speaker of the house of representatives
7 ~~[legislature]~~ with information useful in measuring the effect of
8 federal actions on the state and local programs; and

9 (5) prepare and supply to the governor, the lieutenant
10 governor, and the speaker of the house of representatives ~~[and all~~
11 ~~members of the legislature]~~ an annual report that:

12 (A) describes the office's operations;

13 (B) contains the office's priorities and
14 strategies for the following year;

15 (C) details projects and legislation pursued by
16 the office;

17 (D) discusses issues in the following
18 congressional session of interest to this state; and

19 (E) contains an analysis of federal funds
20 availability and formulae~~[, and~~

21 ~~[(6) prepare annually a complete and detailed written~~
22 ~~report accounting for all funds received and disbursed by the~~
23 ~~office during the preceding fiscal year].~~

24 SECTION 1K.06. The heading to Section 751.006, Government
25 Code, is amended to read as follows:

26 Sec. 751.006. STAFF~~[, PERSONNEL POLICIES]~~.

27 SECTION 1K.07. Section 751.006(a), Government Code, is

1 amended to read as follows:

2 (a) The director may employ staff necessary to carry out the
3 director's powers and duties under this chapter. [~~The director or~~
4 ~~the director's designee shall provide to office employees, as often~~
5 ~~as necessary, information regarding their qualification for~~
6 ~~employment under this chapter and their responsibilities under~~
7 ~~applicable laws relating to standards of conduct for state~~
8 ~~employees.~~]

9 SECTION 1K.08. The heading to Section 751.010, Government
10 Code, is amended to read as follows:

11 Sec. 751.010. [~~OFFICE OF~~] STATE-FEDERAL RELATIONS ADVISORY
12 [~~POLICY~~] BOARD.

13 SECTION 1K.09. Section 751.010, Government Code, is amended
14 by amending Subsections (a), (e), and (f) and adding Subsection (g)
15 to read as follows:

16 (a) The governor may appoint members to an advisory board to
17 assist in the administration of this chapter [~~Office of~~
18 ~~State-Federal Relations Advisory Policy Board consists of:~~

19 [~~(1) the governor,~~

20 [~~(2) the lieutenant governor, and~~

21 [~~(3) the speaker of the house of representatives~~].

22 (e) The board may [~~shall~~] meet before the beginning of each
23 congressional session and at the call of the director [~~presiding~~
24 ~~officer~~].

25 (f) The board may [~~shall~~] work with the director to hold
26 periodic meetings [~~in the city of Austin at times determined by the~~
27 ~~presiding officer~~] to discuss upcoming federal activities and

1 issues with state agency representatives.

2 (g) A member of the advisory board may not receive
3 compensation, but is entitled to reimbursement of the member's
4 necessary and actual expenses incurred while performing duties
5 under this chapter, subject to any applicable limitation on
6 reimbursement provided by general law or the General Appropriations
7 Act.

8 SECTION 1K.10. Sections 751.012(c) and (e), Government
9 Code, are amended to read as follows:

10 (c) A contract under this section must include provisions
11 under which staff of the other state agency:

12 (1) report directly to the director;

13 (2) report ~~[directly]~~ to the other state ~~[that]~~
14 agency's administrative head or the presiding officer of the other
15 state ~~[that]~~ agency's governing body;

16 (3) ~~[(2)]~~ have an officially recognized role in the
17 other state ~~[that]~~ agency's budget planning process;

18 (4) ~~[(3)]~~ provide periodic updates of activities to
19 the other state ~~[at meetings of that]~~ agency's governing body; and

20 (5) ~~[(4)]~~ receive a salary established under
21 Subsection (d).

22 (e) A state agency identified by the Legislative Budget
23 Board or the governor's office of budget, planning, and policy as
24 receiving significant federal funding or being significantly
25 affected by federal policy decisions, other than a state agency
26 that is headed by a statewide-elected official, shall:

27 (1) develop a plan of state-federal coordination;

(2) study the benefits of entering a contract under Subsection (a); and

(3) submit the coordination plan and study to the office and to the Legislative Budget Board.

SECTION 1K.11. Chapter 751, Government Code, is amended by adding Section 751.015 to read as follows:

Sec. 751.015. AGENCY COMMUNICATIONS. A state agency must, to the extent practicable, contact the office before the agency provides information to a federal agency or to the United States Congress about a state policy or state circumstances. This section does not apply to a state agency that is headed by a statewide-elected official.

SECTION 1K.12. Subchapter B, Chapter 751, Government Code, is transferred to Chapter 401, Government Code, redesignated as Subchapter G, Chapter 401, Government Code, and amended to read as follows:

SUBCHAPTER G [~~B~~]. FEDERAL FUNDS MANAGEMENT

Sec. 401.151 [~~751.021~~]. DEFINITION. In this subchapter, "federal formula funds" means only those funds coming to the state based on federal funding formulas or as otherwise legislated by congress, excluding those funds known as federal discretionary grant funds.

Sec. 401.152 [~~751.022~~]. POWERS AND DUTIES. (a) The governor's office of budget, planning, and policy has primary responsibility for monitoring, coordinating, and reporting on the state's efforts to ensure receipt of an equitable share of federal formula funds.

1 (b) The governor's office of budget, planning, and policy
2 shall:

3 (1) serve as the state's clearinghouse for information
4 on federal formula funds;

5 (2) prepare reports on federal funds and earned
6 federal formula funds;

7 (3) analyze proposed and pending federal and state
8 legislation to determine whether the legislation would have a
9 significant negative effect on the state's ability to receive an
10 equitable share of federal formula funds;

11 (4) make recommendations for coordination between
12 state agencies and local governmental entities and between state
13 agencies; and

14 (5) adopt rules under the rule-making procedures of
15 the administrative procedure law, Chapter 2001, Government Code, as
16 necessary to carry out the responsibilities assigned by this
17 subchapter.

18 (c) The governor's office of budget, planning, and policy
19 shall annually prepare a comprehensive report to the governor and
20 legislature on the effectiveness of the state's efforts to ensure a
21 receipt of an equitable share of federal formula funds for the
22 preceding federal fiscal year. The report must include:

23 (1) an executive summary that provides an overview of
24 the major findings and recommendations included in the report;

25 (2) a comparative analysis of the state's receipt of
26 federal formula funds relative to other states, prepared using the
27 best available sources of data;

1 (3) an analysis of federal formula funding trends that
2 may have a significant effect on resources available to the state;
3 and

4 (4) recommendations, developed in consultation with
5 the Legislative Budget Board, the Office of State-Federal Relations
6 [~~Governor's Office of Budget and Planning~~], and the comptroller,
7 for any state legislative or administrative action necessary to
8 increase the state's receipt of federal formula funds.

9 ~~[Sec. 751.023. AGENCY COMMUNICATIONS. A state agency~~
10 ~~shall, to the extent practicable, contact the office before the~~
11 ~~agency provides information to a federal agency or to the United~~
12 ~~States Congress about state policy or conditions. This section~~
13 ~~does not apply to a state agency that is headed by a~~
14 ~~statewide-elected official.]~~

15 Sec. 401.153 [~~751.024~~]. REPORTS CONCERNING GRANT FUNDS.

16 (a) Each agency and each institution of higher education shall
17 report to [~~the office~~⁷] the Legislative Budget Board^[7] and the
18 governor's office of budget, planning, and policy [~~budget division~~
19 ~~of the governor's office~~]:

20 (1) each application or request made to the United
21 States government for grant funds;

22 (2) the award or designation, by the United States
23 government, of any funds for expenditure by a state agency; and

24 (3) waivers of grant requirements.

25 (b) In consultation with the governor's office of budget,
26 planning, and policy [~~director~~], the Legislative Budget Board may
27 prescribe reporting procedures and time schedules necessary to

1 implement Subsection (a).

2 SECTION 1K.13. Section 322.004, Government Code, is amended
3 by adding Subsection (e) to read as follows:

4 (e) The director may maintain office space at locations
5 chosen by the director, including at locations outside of the
6 state.

7 SECTION 1K.14. (a) The heading to Subchapter A, Chapter
8 751, Government Code, is repealed.

9 (b) The following sections of the Government Code are
10 repealed:

- 11 (1) Section 751.003;
- 12 (2) Section 751.005(d);
- 13 (3) Sections 751.006(b)-(f);
- 14 (4) Section 751.008;
- 15 (5) Sections 751.010(b)-(d);
- 16 (6) Section 751.011; and
- 17 (7) Section 751.012(b).

18 SECTION 1K.15. On September 1, 2003:

19 (1) all powers, duties, obligations, rights,
20 contracts, records, real and personal property, funds,
21 appropriations, money, and authorized full-time equivalent (FTE)
22 positions of the Office of State-Federal Relations are transferred
23 to the office of the governor;

24 (2) an employee of the Office of State-Federal
25 Relations becomes an employee of the office of the governor;

26 (3) a rule, policy, procedure, report, or decision of
27 the Office of State-Federal Relations continues in effect as a

1 rule, policy, procedure, report, or decision of the office of the
2 governor until superseded by an act of the office of the governor;
3 and

4 (4) a reference in another law to the Office of
5 State-Federal Relations means the office of the governor.

6 ARTICLE 1L. STATEWIDE COORDINATION OF PUBLIC TRANSPORTATION

7 SECTION 1L.01. Subtitle K, Title 6, Transportation Code, is
8 amended by adding Chapter 461 to read as follows:

9 CHAPTER 461. STATEWIDE COORDINATION OF PUBIC TRANSPORTATION

10 Sec. 461.001. LEGISLATIVE INTENT AND CONSTRUCTION. (a)
11 Public transportation services are provided in this state by many
12 different entities, both public and private. The multiplicity of
13 public transportation providers and services, coupled with a lack
14 of coordination between state oversight agencies, has generated
15 inefficiencies, overlaps in service, and confusion for consumers.
16 It is the intent of this chapter:

17 (1) to eliminate waste in the provision of public
18 transportation services;

19 (2) to generate efficiencies that will permit
20 increased levels of service; and

21 (3) to further the state's efforts to reduce air
22 pollution.

23 (b) This chapter shall be liberally construed to achieve its
24 purposes.

25 Sec. 461.002. DEFINITIONS. In this chapter:

26 (1) "Public transportation provider" means any entity
27 that provides public transportation services if it is a

1 governmental entity or if it receives financial assistance from a
2 governmental entity, whether state, local, or federal. The term
3 does not include private carriers that do not receive financial
4 assistance from a governmental entity. It also does not include a
5 person who provides intercity rail or bus service, commercial air
6 transportation, water transportation, or nonstop service to or from
7 a point located outside this state. If a person provides both
8 public transportation services and services that are not public
9 transportation services, that person is included within the term
10 only with regard to the provision of public transportation services
11 and to the extent of those public transportation services.

12 (2) "Public transportation services" means any
13 conveyance of passengers and their hand-carried baggage by a
14 governmental entity or by a private entity if the private entity
15 receives financial assistance for that conveyance from any
16 governmental entity. It does not include intercity rail or bus
17 service, commercial air transportation, water transportation, or
18 nonstop service to or from a point located outside this state.

19 Sec. 461.003. RULES OF TEXAS TRANSPORTATION COMMISSION.

20 (a) The commission by rule may:

21 (1) require a state agency that is responsible for
22 ensuring the provision of public transportation services to
23 contract with the department for the department to assume the
24 responsibilities of that agency relating to the provision of public
25 transportation services; and

26 (2) require a public transportation provider to
27 provide detailed information on its provision of public

1 transportation services, including revenues, routes, maps,
2 categories of passengers served, number of passengers served, and
3 equipment use and condition.

4 (b) Except with regard to health and human services programs
5 funded by this state, the commission may not direct the planning or
6 operations of an authority created or operating under Chapter 451,
7 452, or 453.

8 (c) The commission shall adopt other rules, including rules
9 defining terms, necessary to implement this chapter.

10 Sec. 461.004. DUTIES OF TEXAS DEPARTMENT OF TRANSPORTATION.

11 (a) The department shall identify:

12 (1) overlaps and gaps in the provision of public
13 transportation services, including services that could be more
14 effectively provided by existing, privately funded transportation
15 resources;

16 (2) underused equipment owned by public
17 transportation providers; and

18 (3) inefficiencies in the provision of public
19 transportation services by any public transportation provider.

20 (b) The department may contract with any public or private
21 transportation provider for the department to arrange for the
22 provision of public transportation services.

23 Sec. 461.005. ELIMINATION OF OVERLAPPING SERVICE. (a) To
24 eliminate waste and maximize efficiency, the department shall
25 encourage public transportation providers to agree on the
26 allocation of specific services and service areas among the
27 providers. The department may incorporate these discussions in

1 planning processes such as the development of the statewide
2 transportation improvement program or a local transportation
3 improvement plan.

4 (b) If public transportation providers do not reach an
5 agreement on a service plan under Subsection (a), the department
6 may develop an interim service plan for that area.

7 (c) The department may require that all or a percentage of
8 the vehicles used to provide public transportation services comply
9 with specified emissions standards. The standards may vary among
10 geographic areas based on the need of each area to reduce levels of
11 air pollution. This subsection does not apply to an authority
12 created under Chapter 451, 452, or 453.

13 Sec. 461.006. DUTIES OF PUBLIC TRANSPORTATION PROVIDERS.
14 Each public transportation provider shall cooperate with the
15 department in eliminating waste and ensuring efficiency and maximum
16 coverage in the provision of public transportation services.

17 Sec. 461.007. INCENTIVES FOR EFFICIENCY. (a)
18 Notwithstanding any other law, including a law establishing a
19 formula for the allocation of public transportation grants, the
20 commission may increase or reduce the amount of a grant made to a
21 public transportation provider based on whether the public
22 transportation provider is complying fully with this chapter.

23 (b) Notwithstanding any other law, the commission may
24 consider whether a public transportation provider in a geographic
25 area of this state is complying fully with this chapter in executing
26 the commission's other responsibilities relating to that area.

27 SECTION 1L.02. Section 455.0015, Transportation Code, is

1 amended by amending Subsection (b) and adding Subsections (c) and
2 (d) to read as follows:

3 (b) It is the intent of the legislature that, whenever
4 possible, and to the maximum extent feasible, the existing network
5 of transportation providers, and in particular the fixed route
6 components of the existing networks, be used to meet the client
7 transportation requirements of the state's social service agencies
8 and their agents. The legislature recognizes the contributions of
9 nonprofit entities dedicated to providing social services and
10 related activities and encourages the continued community
11 involvement of these entities in this area. The legislature
12 likewise recognizes the potential cost savings and other benefits
13 of utilizing existing private sector transportation resources. The
14 department will contract with and promote the use of private sector
15 transportation resources to the maximum extent feasible consistent
16 with the goals of this subsection.

17 (c) Each health and human services agency of this state
18 shall contract with the department for the department to assume all
19 responsibilities of the health and human services agency relating
20 to the provision of transportation services for clients of eligible
21 programs.

22 (d) The department may contract with any public or private
23 transportation provider or with any regional transportation broker
24 for the provision of public transportation services.

25 SECTION 1L.03. Section 455.004, Transportation Code, is
26 amended to read as follows:

27 Sec. 455.004. PUBLIC TRANSPORTATION ADVISORY COMMITTEE.

1 (a) A public transportation advisory committee consisting of nine
2 members shall:

3 (1) advise the commission on the needs and problems of
4 the state's public transportation providers, including the methods
5 for allocating state public transportation money;

6 (2) comment on rules involving public transportation
7 during development of the rules and before the commission finally
8 adopts the rules unless an emergency requires immediate commission
9 action; ~~and~~

10 (3) advise the commission on the implementation of
11 Chapter 461; and

12 (4) perform any other duty determined by the
13 commission.

14 (b) The commission shall appoint members of the advisory
15 committee. The membership of the committee shall ~~[governor, the~~
16 ~~lieutenant governor, and the speaker of the house of~~
17 ~~representatives each shall appoint three members of the committee.~~
18 ~~The appointing officers shall allocate among themselves the~~
19 ~~authority for appointment of members with different types of~~
20 ~~qualifications. The committee must]~~ include:

21 (1) four members who ~~[one member to]~~ represent a
22 diverse cross-section of public transportation providers ~~[in rural~~
23 ~~areas];~~

24 (2) three members who ~~[one member to]~~ represent a
25 diverse cross-section of transportation users ~~[municipal transit~~
26 ~~systems in urban areas with populations of less than 200,000]; and~~

27 (3) two members who ~~[one member to represent~~

1 ~~metropolitan transit authorities in urban areas with populations of~~
2 ~~200,000 or more;~~

3 ~~[(4) one member to represent transportation providers~~
4 ~~for persons with disabilities and the elderly; and~~

5 ~~[(5) five members who have a knowledge of and interest~~
6 ~~in public transportation to]~~ represent the general public.

7 (c) A member serves at the pleasure of the commission
8 ~~[officer appointing the member]~~. A member is not entitled to
9 compensation for service on the committee but is entitled to
10 reimbursement for reasonable expenses the member incurs in
11 performing committee duties.

12 (d) The public transportation advisory committee shall meet
13 ~~[quarterly or]~~ as requested by the commission.

14 (e) The commission may adopt rules to govern the operation
15 of the advisory committee.

16 SECTION 1L.04. Section 461.012, Health and Safety Code, is
17 amended by adding Subsection (g) to read as follows:

18 (g) The commission shall contract with the Texas Department
19 of Transportation for the Texas Department of Transportation to
20 assume all responsibilities of the commission relating to the
21 provision of transportation services for clients of eligible
22 programs.

23 SECTION 1L.05. Section 533.012, Health and Safety Code, is
24 amended to read as follows:

25 Sec. 533.012. COOPERATION OF STATE AGENCIES. (a) At the
26 department's request, all state departments, agencies, officers,
27 and employees shall cooperate with the department in activities

1 that are consistent with their functions.

2 (b) The department shall contract with the Texas Department
3 of Transportation for the Texas Department of Transportation to
4 assume all responsibilities of the department relating to the
5 provision of transportation services for clients of eligible
6 programs.

7 SECTION 1L.06. Section 22.001, Human Resources Code, is
8 amended by adding Subsection (e) to read as follows:

9 (e) The department shall contract with the Texas Department
10 of Transportation for the Texas Department of Transportation to
11 assume all responsibilities of the department relating to the
12 provision of transportation services for clients of eligible
13 programs.

14 SECTION 1L.07. Section 40.002, Human Resources Code, is
15 amended by adding Subsection (f) to read as follows:

16 (f) The department may contract with the Texas Department of
17 Transportation for the Texas Department of Transportation to assume
18 all responsibilities of the department relating to the provision of
19 transportation services for clients of eligible programs.

20 SECTION 1L.08. Section 91.021, Human Resources Code, is
21 amended by adding Subsection (g) to read as follows:

22 (g) The commission shall contract with the Texas Department
23 of Transportation for the Texas Department of Transportation to
24 assume all responsibilities of the commission relating to the
25 provision of transportation services for clients of eligible
26 programs.

27 SECTION 1L.09. Section 101.0256, Human Resources Code, is

amended to read as follows:

Sec. 101.0256. COORDINATED ACCESS TO LOCAL SERVICES. (a)
The department and the Texas Department of Human Services shall
develop standardized assessment procedures to share information on
common clients served in a similar service region.

(b) The department shall contract with the Texas Department
of Transportation for the Texas Department of Transportation to
assume all responsibilities of the department relating to the
provision of transportation services for clients of eligible
programs.

SECTION 1L.10. Section 111.0525, Human Resources Code, is
amended by adding Subsection (d) to read as follows:

(d) The commission shall contract with the Texas Department
of Transportation for the Texas Department of Transportation to
assume all responsibilities of the commission relating to the
provision of transportation services for clients of eligible
programs.

SECTION 1L.11. Section 301.063, Labor Code, is amended by
adding Subsection (f) to read as follows:

(f) The commission shall contract with the Texas Department
of Transportation for the Texas Department of Transportation to
assume all responsibilities of the commission relating to the
provision of transportation services for clients of eligible
programs.

SECTION 1L.12. LEGISLATIVE INTENT REGARDING PROVISION OF
HEALTH AND HUMAN SERVICE TRANSPORTATION THROUGH THE TEXAS
DEPARTMENT OF TRANSPORTATION. It is the intent of the legislature

1 that the provision of health and human service transportation
2 through the Texas Department of Transportation will improve the
3 delivery of transportation services to clients and enhance their
4 access to transportation services. Furthermore, it is the intent
5 of the legislature that these services be provided in a manner that
6 will generate efficiencies in operation, control costs, and permit
7 increased levels of service. The Texas Department of
8 Transportation shall encourage cooperation and coordination among
9 transportation providers, regional transportation brokers, and
10 actual and potential clients in an effort to achieve the stated
11 legislative goals.

12 SECTION 1L.13. Any funds that are used by the Texas
13 Department of Transportation to implement the transportation
14 services provided in Sections 1L.02, 1L.04, 1L.05, 1L.06, 1L.07,
15 1L.08, 1L.09, 1L.10, and 1L.11 of this article shall be accounted
16 for and budgeted separately from other funds appropriated to the
17 Texas Department of Transportation for any other public
18 transportation program or budget strategy.

19 ARTICLE 1M. GOVERNOR'S BUDGET AUTHORITY

20 SECTION 1M.01. Section 401.0445(b), Government Code, is
21 amended to read as follows:

22 (b) In the budget, the governor shall show:

23 (1) the list of appropriations for the current year
24 preceding the biennium for which appropriations are sought and
25 recommended;

26 (2) expenditures for [~~each of~~] the year [~~two full~~
27 ~~years~~] preceding the current year; and

(3) the amounts requested by the various agencies and the amounts recommended by the governor for each of the years of the biennium.

SECTION 1M.02. Section 401.046(a), Government Code, is amended to read as follows:

(a) The governor shall deliver a copy of the governor's budget to each member of the legislature before the governor gives the message to the legislature required by Section 9, Article IV, Texas Constitution, at the commencement ~~[not later than the sixth day]~~ of each regular legislative session.

SECTION 1M.03. Section 401.047, Government Code, is repealed.

SECTION 1M.04. Chapter 2053, Government Code, is repealed.

ARTICLE 1N. COMMISSIONER OF INSURANCE

SECTION 1N.01. Section 31.022(a), Insurance Code, is amended to read as follows:

(a) The governor, with the advice and consent of the senate, shall appoint the commissioner. The commissioner serves a one-year ~~[two-year]~~ term that expires on February 1 ~~[of each odd-numbered year]~~.

SECTION 1N.02. Section 31.023, Insurance Code, is amended to read as follows:

Sec. 31.023. QUALIFICATIONS. The commissioner must ~~+~~
~~[(1) be a competent and experienced administrator,~~
~~[(2)]~~ be well informed and qualified in the field of insurance and insurance regulation~~+~~ and
~~[(3) have at least 10 years of experience as an~~

1 ~~executive]~~ in the administration of business or government ~~[or as a~~
2 ~~practicing attorney or certified public accountant, with at least~~
3 ~~five years of that experience in the field of insurance or insurance~~
4 ~~regulation]~~.

5 SECTION 1N.03. Section 31.027(a), Insurance Code, is
6 amended to read as follows:

7 (a) It is a ground for removal from office if the
8 commissioner:

9 (1) does not have at the time of appointment the
10 qualifications required by Section 31.023;

11 (2) ~~[does not maintain during service as commissioner~~
12 ~~the qualifications required by Section 31.023,~~

13 ~~[(3)]~~ violates a prohibition established by Section
14 33.001, 33.003, 33.004, or 33.005; or

15 (3) ~~[(4)]~~ cannot, because of illness or disability,
16 discharge the commissioner's duties for a substantial part of the
17 commissioner's term.

18 SECTION 1N.04. The change in law made by this Act to
19 Sections 31.022, 31.023, and 31.027, Insurance Code, applies only
20 to the appointment of the commissioner of insurance on or after the
21 effective date of this Act. A commissioner of insurance appointed
22 before the effective date of this Act is governed by the law as it
23 existed immediately before that date, and that law is continued in
24 effect for this purpose.

25 ARTICLE 10. REVIEW OF UNIVERSITY SYSTEM ADMINISTRATION

26 SECTION 10.01. Subchapter C, Chapter 61, Education Code, is
27 amended by adding Section 61.0515 to read as follows:

Sec. 61.0515. REVIEW OF UNIVERSITY SYSTEM ADMINISTRATION.

(a) The board shall perform a review of the organization and operations of each university system office to:

(1) identify appropriate organizational structures for university systems and system offices;

(2) identify and quantify workforce and other resources at each system office used to provide services and functions common to each system office; and

(3) determine the extent to which system administration employees are performing services and functions that are also provided by employees of individual component institutions of each university system.

(b) In the review, the board shall identify the number and types of administrative and executive positions in the administration of each university system, and shall examine each major function, service, or activity performed by university system offices, including:

(1) central administration;

(2) academic affairs coordination and support;

(3) general counsel and other legal services;

(4) budgeting, accounting, and data reporting;

(5) fiscal management;

(6) facilities planning and construction;

(7) governmental relations;

(8) audit services;

(9) real estate management;

(10) information technology services; and

1 (11) aircraft operation and usage.

2 (c) Not later than November 1, 2004, the board shall prepare
3 a report of the review and deliver the report to the governor,
4 lieutenant governor, speaker of the house of representatives,
5 Legislative Budget Board, and chair of the standing committee of
6 each house of the legislature with primary jurisdiction over higher
7 education. In the report, the board shall state its findings and
8 identify opportunities for legislative and administrative action
9 relating to:

10 (1) the reorganization of university system offices
11 and functions;

12 (2) the consolidation or reorganization of university
13 systems; and

14 (3) the consolidation or centralization of functions,
15 services, or activities of university system offices.

16 (d) In the report, the board shall identify potential
17 reductions in personnel and other cost savings associated with each
18 legislative or administrative action the board identifies under
19 Subsection (c).

20 (e) This section expires September 1, 2005.

21 ARTICLE 1P. ABOLITION OF TEXAS COMMISSION ON PRIVATE SECURITY

22 SECTION 1P.01. Subchapter A, Chapter 1702, Occupations
23 Code, is amended by adding Section 1702.005 to read as follows:

24 Sec. 1702.005. COMMISSION ABOLISHED AND FUNCTIONS
25 TRANSFERRED. (a) The commission is abolished, and all powers,
26 duties, personnel, property, assets, and obligations of the
27 commission are transferred to the Department of Public Safety of

1 the State of Texas. The validity of a prior action of the
2 commission is not affected by the abolishment.

3 (b) All rules of the commission relating to a transferred
4 power or duty remain in effect as rules of the Department of Public
5 Safety of the State of Texas until amended or repealed by the
6 Department of Public Safety of the State of Texas.

7 (c) A reference in this chapter or another law to the
8 commission means the Department of Public Safety of the State of
9 Texas.

10 ARTICLE 1Q. MEMBERS OF PARKS AND WILDLIFE COMMISSION

11 SECTION 1Q.01. Section 11.012(d), Parks and Wildlife Code,
12 is amended to read as follows:

13 (d) In making appointments under this section, the
14 governor:

15 (1) shall:

16 (A) attempt to include persons with expertise in
17 diverse fields, including fields such as historic preservation,
18 conservation, and outdoor recreation; and

19 (B) consider the commission's composition in
20 terms of:

21 (i) the geographical areas represented by
22 members of the commission; and

23 (ii) the appropriate balance of
24 representatives from rural and urban areas; and

25 (2) may include persons who have an interest in and
26 knowledge of hunting, fishing, wildlife, environmental concerns,
27 land or water use issues, or water quality issues.

1 SECTION 1Q.02. (a) As soon as possible on or after
2 September 1, 2003, the governor shall appoint nine members to the
3 Parks and Wildlife Commission under Section 11.012, Parks and
4 Wildlife Code, as amended by this Act. The governor shall
5 designate:

6 (1) three members, including one public member, for
7 terms expiring February 1, 2005;

8 (2) three members, including one public member, for
9 terms expiring February 1, 2007; and

10 (3) three members, including one public member, for
11 terms expiring February 1, 2009.

12 (b) The governor may reappoint a person who served as a
13 member of the Parks and Wildlife Commission before September 1,
14 2003.

15 (c) The position of a member of the Parks and Wildlife
16 Commission serving immediately before September 1, 2003, is
17 abolished at the time five or more of the newly appointed directors
18 qualify for office. Until the abolition of the members' positions
19 occurs under this section, the members serving immediately before
20 September 1, 2003, have the same powers and duties that the members
21 had immediately before that date and the commission continues to be
22 composed in the way it was composed before that date, and the former
23 law is continued in effect for that purpose.

24 ARTICLE 1R. DESIGNATION OF PRESIDING OFFICERS

25 SECTION 1R.01. Chapter 651, Government Code, is amended by
26 adding Section 651.008 to read as follows:

27 Sec. 651.008. APPOINTMENT OF PRESIDING OFFICERS BY

1 GOVERNOR. (a) In this section, "state agency" means a department,
2 commission, board, office, council, authority, or other agency in
3 the executive branch of state government that is created by the
4 constitution or a statute of this state, including:

5 (1) a university system or institution of higher
6 education as defined by Section 61.003, Education Code; and

7 (2) a river authority as defined by Section 30.003,
8 Water Code.

9 (b) Notwithstanding other law, the governor may designate a
10 member of the governing body of each state agency as the presiding
11 officer of that governing body to serve in that capacity at the
12 pleasure of the governor.

13 ARTICLE 1S. ADMINISTRATION OF THE TEXAS DEPARTMENT OF CRIMINAL
14 JUSTICE

15 SECTION 1S.01. Chapter 493, Government Code, is amended by
16 adding Sections 493.0022 and 493.0023 to read as follows:

17 Sec. 493.0022. REPORT TO THE LEGISLATURE. The department
18 shall report to the legislature not later than December 31, 2004, on
19 the costs and feasibility of providing cognitive behavior training
20 to corrections officers. This section expires January 1, 2005.

21 Sec. 493.0023. STUDY REGARDING EFFICIENT ADMINISTRATION.
22 (a) The department, in consultation with representatives from The
23 University of Texas or Texas A&M University who are specialists in
24 corporate reorganization and efficiency, shall conduct a study to
25 evaluate the organizational arrangement and efficient
26 administration of the department. The study shall include an
27 evaluation of possible means by which to:

1 (1) reduce inmate transportation costs as well as
2 costs incurred in transporting food and other consumables to prison
3 units;

4 (2) maximize the profitable and productive use of
5 manufacturing capital investments; and

6 (3) reduce costs and prevent idleness of inmates by
7 aggressive use of inmate labor in performing construction, repairs,
8 and maintenance.

9 (b) The department shall conduct an analysis of complaint
10 procedures and policies to eliminate repetitive complaints for
11 which there is a substantive basis. As part of the analysis, the
12 department shall:

13 (1) determine the number of complaints the department
14 receives in various subject area categories;

15 (2) propose policy changes to eliminate the basis for
16 most basic complaints without endangering public safety or
17 efficient operations; and

18 (3) seek to reduce the number of complaints received
19 by the department and the time required to respond to those
20 complaints.

21 (c) The department shall submit an annual report to the
22 legislature on the progress of the study and the analysis conducted
23 under this section not later than December 1, 2003, and December 1,
24 2004.

25 (d) This section expires January 1, 2005.

26 PART 2. FEES AND OTHER FINANCIAL ISSUES

27 ARTICLE 2A. TEXAS ENTERPRISE FUND

1 SECTION 2A.01. Subchapter E, Chapter 481, Government Code,
2 is amended by adding Section 481.078 to read as follows:

3 Sec. 481.078. TEXAS ENTERPRISE FUND. (a) In this section,
4 "account" means the Texas Enterprise Fund.

5 (b) The Texas Enterprise Fund is an account in the general
6 revenue fund.

7 (c) The account consists of:

8 (1) money appropriated by the legislature for the
9 purposes of this section;

10 (2) money transferred to the account at the direction
11 of the legislature; and

12 (3) gifts, grants, and other donations received by the
13 governor or the department intended for the account.

14 (d) Money in the account may be used only for economic
15 development, infrastructure development, community development,
16 job training programs, job creation programs, and business
17 incentives. Money in the account may be used by the comptroller
18 temporarily for cash management purposes.

19 (e) Interest earned on the principal of the account shall be
20 deposited to the credit of the economic stabilization fund.

21 (f) The governor may negotiate on behalf of the state
22 regarding awarding by grant money appropriated from the account.
23 The governor may award money appropriated from the account only
24 with the express written prior approval of the lieutenant governor
25 and the speaker of the house of representatives.

26 (g) Before awarding a grant under this section, the governor
27 and the entity to be awarded the grant money may enter into a

1 written agreement that specifies that:

2 (1) if all or any portion of the amount of the grant is
3 used to build a capital improvement:

4 (A) the state retains a lien or other interest in
5 the capital improvement in proportion to the percentage of the
6 grant amount used to pay for the capital improvement; and

7 (B) the recipient of the grant shall, if the
8 capital improvement is sold:

9 (i) repay to the state the grant money used
10 to pay for the capital improvement, with interest at the rate and
11 according to other terms provided by the agreement; and

12 (ii) share with the state a proportionate
13 amount of any profit realized from the sale; and

14 (2) if, as of a date certain as provided in the
15 agreement, the grant recipient has not used grant money awarded
16 under this section for the purposes for which the grant was
17 intended, the recipient shall repay that amount and any related
18 interest to the state at the agreed rate and terms.

19 ARTICLE 2B. FEES FOR RAIL SAFETY PROGRAM

20 SECTION 2B.01. Article 6448a, Revised Statutes, is amended
21 to read as follows:

22 Art. 6448a. IMPLEMENTATION OF FEDERAL RAILROAD SAFETY ACT
23 OF 1970.

24 Sec. 1. The Railroad Commission of Texas is hereby
25 authorized to perform any act and issue any rules and orders as
26 permitted by the Federal Railroad Safety Act of 1970 (45 U.S.C.A.
27 431 et seq.).

1 Sec. 2. (a) The Railroad Commission of Texas by rule shall
2 adopt and provide for the collection of reasonable fees to be
3 assessed annually against railroads operating within this state.
4 The amount of a fee imposed under this article may not exceed an
5 amount estimated by the commission to be sufficient in the
6 aggregate to recover the costs of administering the commission's
7 rail safety program.

8 (b) To provide for the equitable allocation of the cost of
9 administering the commission's rail safety program among
10 railroads, the commission may consider the gross ton miles for
11 railroad operations within this state for each railroad operating
12 in the state when assessing a fee.

13 (c) A fee collected under this section shall be deposited to
14 the credit of the general revenue fund to be used for the rail
15 safety program.

16 ARTICLE 2C. FINANCING OF STATE FACILITY EXPENDITURES

17 SECTION 2C.01. Chapter 2113, Government Code, is amended by
18 adding Subchapter E to read as follows:

19 SUBCHAPTER E. RESTRICTIONS ON CAPITAL EXPENDITURES

20 Sec. 2113.301. PREFERENCE FOR FINANCING CERTAIN CAPITAL
21 EXPENDITURES WITH MONEY GENERATED BY UTILITY COST SAVINGS CONTRACT.

22 (a) In this section:

23 (1) "State facility purpose" means a purpose related
24 to:

25 (A) the maintenance of a state-owned or
26 state-leased building or facility; or

27 (B) a project as defined by Section 2166.001,

1 including a project described by Section 2166.003.

2 (2) "Utility cost savings contract" means a contract
3 under Subchapter I, Chapter 2166, or other law that guarantees
4 utility cost savings for energy conservation measures to reduce
5 energy or water consumption or to reduce operating costs of
6 governmental facilities.

7 (b) Before a state agency may use appropriated money to make
8 a capital expenditure for a state facility purpose, the state
9 agency must determine whether the expenditure could be financed
10 with money generated by a utility cost savings contract.

11 (c) If it is practicable to do so, a state agency that is
12 using appropriated money must finance a capital expenditure for a
13 state facility purpose with money generated by a utility cost
14 savings contract.

15 (d) If it is not practicable for a state agency that is using
16 appropriated money to finance a capital expenditure for a state
17 facility purpose with money generated by a utility cost savings
18 contract, the state agency must provide justification to the
19 Legislative Budget Board for the capital expenditure.

20 (e) In determining under Subsection (b) whether a capital
21 expenditure could be financed by a utility cost savings contract, a
22 state agency must consider whether utility cost savings generated
23 by any department of that agency could be a potential means of
24 financing a capital expenditure for any department of that agency.
25 Money generated by a utility cost savings in one department of a
26 state agency may be used to finance capital expenditures for a state
27 facility purpose in any department of that agency.

ARTICLE 2D. SALES TAX ON MOTOR VEHICLES

SECTION 2D.01. Section 152.002, Tax Code, is amended by adding Subsection (f) to read as follows:

(f) Notwithstanding Subsection (a), the total consideration of a used motor vehicle is the amount on which the tax is computed as provided by Section 152.0412.

SECTION 2D.02. Section 152.041(a), Tax Code, is amended to read as follows:

(a) The tax assessor-collector of the county in which an application for registration or for a Texas certificate of title is made shall collect taxes imposed by this chapter, subject to Section 152.0412, unless another person is required by this chapter to collect the taxes.

SECTION 2D.03. Subchapter C, Chapter 152, Tax Code, is amended by adding Section 152.0412 to read as follows:

Sec. 152.0412. STANDARD PRESUMPTIVE VALUE; USE BY TAX ASSESSOR-COLLECTOR. (a) In this section, "standard presumptive value" means the average retail value of a motor vehicle as determined by the Texas Department of Transportation, based on a nationally recognized motor vehicle industry reporting service.

(b) If the amount paid for a motor vehicle subject to the tax imposed by this chapter is equal to or greater than the standard presumptive value of the vehicle, a county tax assessor-collector shall compute the tax on the amount paid.

(c) If the amount paid for a motor vehicle subject to the tax imposed by this chapter is less than the standard presumptive value of the vehicle, a county tax assessor-collector shall compute the

1 tax on the standard presumptive value unless the purchaser
2 establishes the retail value of the vehicle as provided by
3 Subsection (d).

4 (d) A county tax assessor-collector shall compute the tax
5 imposed by this chapter on the retail value of a motor vehicle if:

6 (1) the retail value is shown on an appraisal
7 certified by an adjuster licensed under Article 21.07-4, Insurance
8 Code, or by a motor vehicle dealer operating under Subchapter B,
9 Chapter 503, Transportation Code;

10 (2) the appraisal is on a form prescribed by the
11 comptroller for that purpose; and

12 (3) the purchaser of the vehicle obtains the appraisal
13 not later than the 20th day after the date of purchase.

14 (e) On request, a motor vehicle dealer operating under
15 Subchapter B, Chapter 503, Transportation Code, shall provide a
16 certified appraisal of the retail value of a motor vehicle. The
17 comptroller by rule shall establish a fee that a dealer may charge
18 for providing the certified appraisal. The county tax
19 assessor-collector shall retain a copy of a certified appraisal
20 received under this section.

21 (f) The Texas Department of Transportation shall maintain
22 information on the standard presumptive values of motor vehicles as
23 part of the department's registration and title system. The
24 department shall update the information at least quarterly each
25 calendar year.

26 SECTION 2D.04. (a) Not later than September 1, 2003, the
27 Texas Department of Transportation shall:

1 (1) establish standard presumptive values for motor
2 vehicles as provided by Section 152.0412, Tax Code, as added by this
3 Act;

4 (2) modify the department's registration and title
5 system as needed to include that information and administer that
6 section; and

7 (3) make that information available through the system
8 to all county tax assessor-collectors.

9 (b) The comptroller shall certify the date on which the
10 Texas Department of Transportation's registration and title
11 system, as modified under Subsection (a) of this section, is in use
12 by the 25 county tax assessor-collectors that remitted to the
13 comptroller the largest amount of taxes imposed under Chapter 152,
14 Tax Code, during the state fiscal year ending August 31, 2003.

15 (c) If the date certified by the comptroller under
16 Subsection (b) of this section is later than September 23, 2003, the
17 Texas Department of Transportation shall transfer \$23 million from
18 the state highway fund to the general revenue fund on the first day
19 of each month after that date until the earlier of:

20 (1) the date the comptroller issues the certification
21 under Subsection (b) of this section; or

22 (2) the date the total amount transferred under this
23 subsection equals the lesser of:

24 (A) \$200 million; or

25 (B) the total amount in the state highway fund
26 that is not allocated as the result of a requirement in the Texas
27 Constitution.

ARTICLE 2E. OVERSIGHT OF REGIONAL PLANNING COMMISSIONS

SECTION 2E.01. The heading to Section 391.009, Local Government Code, is amended to read as follows:

Sec. 391.009. ROLE OF STATE AUDITOR, GOVERNOR, AND STATE AGENCIES.

SECTION 2E.02. Section 391.009, Local Government Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) To protect the public interest or promote the efficient use of public funds, the state auditor [~~governor~~] shall recommend to the governor drafts of [~~adopt~~]:

(1) rules relating to the operation and oversight of a commission;

(2) rules relating to the receipt or expenditure of funds by a commission, including:

(A) restrictions on the expenditure of any portion of commission funds for certain classes of expenses; and

(B) restrictions on the maximum amount of or percentage of commission funds that may be expended on a class of expenses, including indirect costs or travel expenses;

(3) annual reporting requirements for a commission;

(4) annual audit requirements on funds received or expended by a commission from any source;

(5) rules relating to the establishment and use of standards by which the productivity and performance of each commission can be evaluated; and

(6) guidelines that commissions and governmental

units shall follow in carrying out the provisions of this chapter relating to review and comment procedures.

(a-1) The governor shall review the draft rules submitted by the state auditor under Subsection (a) and shall:

- (1) adopt the rules as drafted;
- (2) modify the rules and adopt the modified rules; or
- (3) reject the rules and return the rules to the state auditor with instructions for redrafting and resubmitting the rules.

SECTION 2E.03. Section 391.0095, Local Government Code, is amended to read as follows:

Sec. 391.0095. AUDIT AND REPORTING REQUIREMENTS. (a) The audit and reporting requirements under Section 391.009(a) shall include a requirement that a commission annually report to the state auditor ~~[governor]~~:

- (1) the amount and source of funds received by the commission;
- (2) the amount and source of funds expended by the commission;
- (3) an explanation of any method used by the commission to compute an expense of the commission, including computation of any indirect cost of the commission;
- (4) a report of the commission's productivity and performance during the annual reporting period;
- (5) a projection of the commission's productivity and performance during the next annual reporting period;
- (6) the results of an audit of the commission's affairs

1 prepared by an independent certified public accountant; and

2 (7) a report of any assets disposed of by the
3 commission.

4 (b) A ~~[The annual audit of a]~~ commission or the governor's
5 office may direct that an annual audit of the commission be
6 performed. The annual audit ~~[be commissioned by the governor's~~
7 ~~office or by the commission, as determined by the governor's~~
8 ~~office, and]~~ shall be paid for from the commission's funds.

9 (c) A commission shall submit any other report or an audit
10 to the state auditor and ~~[required by]~~ the governor.

11 (d) If a commission fails to submit a report or audit
12 required under this section or is determined by the state auditor
13 ~~[governor]~~ to have failed to comply with a rule, requirement, or
14 guideline adopted under Section 391.009, the state auditor shall
15 report the failure to the governor. The governor may, until the
16 failure is corrected:

17 (1) appoint a receiver to operate or oversee the
18 commission; or

19 (2) withhold any appropriated funds of the commission.

20 (e) A commission shall send to the state auditor, the
21 governor, the comptroller, and the Legislative Budget Board a copy
22 of each report and audit required under this section or under
23 Section 391.009. The state auditor shall review each audit and
24 report and must be given access to working papers and other
25 supporting documentation that the state auditor determines is
26 necessary to perform the review. If the state auditor finds
27 significant issues involving the administration or operation of a

1 commission or its programs, the state auditor shall report its
2 findings and related recommendations to the legislative audit
3 committee, the governor, and the commission. The ~~[governor and~~
4 ~~the]~~ legislative audit committee, based on the recommendation of
5 the state auditor, may direct the commission to prepare a
6 corrective action plan or other response to the state auditor's
7 findings or recommendations. The legislative audit committee may
8 direct the state auditor to perform any additional audit or
9 investigative work that the committee determines is necessary.

10 SECTION 2E.04. Section 391.0117(e), Local Government Code,
11 is amended to read as follows:

12 (e) A commission shall submit to the state auditor
13 ~~[governor]~~ the commission's salary schedule, including the
14 salaries of all exempt positions, not later than the 45th day before
15 the date of the beginning of the commission's fiscal year. If the
16 state auditor has recommendations to improve ~~[governor objects to]~~
17 a commission's salary schedule or a portion of the schedule, the
18 state auditor shall report the recommendations to the governor's
19 office. The governor's office may not allow the portion of the
20 schedule for which ~~[that]~~ the state auditor has recommendations to
21 ~~[governor objects to may not]~~ go into effect until revisions or
22 explanations are given that are satisfactory to the governor based
23 on recommendations from the state auditor ~~[and the governor~~
24 ~~approves that portion of the schedule]~~.

25 SECTION 2E.05. On the effective date of this Act, a rule,
26 requirement, or guideline adopted by the governor relating to the
27 oversight of regional planning commissions remains in effect until

1 amended or repealed by the governor.

2 ARTICLE 2F. ECONOMIC DEVELOPMENT POWERS OF GOVERNOR

3 SECTION 2F.01. Subchapter F, Chapter 401, Government Code,
4 is amended by adding Section 401.106 to read as follows:

5 Sec. 401.106. ECONOMIC DEVELOPMENT POWERS. (a) The
6 governor may negotiate on behalf of the state in economic
7 development pursuits, including the pursuit of the expansion or
8 relocation of a business project with the potential to have a
9 substantial impact on the economy of this state.

10 (b) To promote the economic development of this state, the
11 governor may direct a state agency to use funds appropriated to the
12 agency or to a fund or account of the agency in a manner specified by
13 the governor that is for a purpose for which the funds are
14 appropriated. The agency shall comply with the governor's
15 direction. The governor may represent to a person for purposes of
16 negotiating under this section that the governor has the authority
17 to obligate state funds as provided by this subsection.

18 (c) Funds that the governor may redirect under Subsection
19 (b) include:

20 (1) amounts reserved by the governor for statewide
21 employment and training activities under 29 U.S.C. Section 2864, as
22 amended;

23 (2) amounts allocated by the Texas Transportation
24 Commission for strategic priorities;

25 (3) the skills development fund;

26 (4) the self-sufficiency fund;

27 (5) discretionary funds of the commissioner of

1 education or the Texas Education Agency;

2 (6) the telecommunications infrastructure fund;

3 (7) funds appropriated for the advanced research
4 program under Chapter 142, Education Code, or the advanced
5 technology program under Chapter 143, Education Code; and

6 (8) unclaimed lottery prize money.

7 (d) Subsections (b) and (c) do not apply in relation to a
8 state agency that is headed by a statewide-elected official.

9 ARTICLE 2G. TEXAS TRANSPORTATION INSTITUTE

10 SECTION 2G.01. Chapter 88, Education Code, is amended by
11 adding Subchapter D to read as follows:

12 SUBCHAPTER D. TEXAS TRANSPORTATION INSTITUTE

13 Sec. 88.301. DEFINITION. In this subchapter, "institute"
14 means the Texas Transportation Institute, a component of The Texas
15 A&M University System.

16 Sec. 88.302. FUNDING; LIMITATION ON GENERAL REVENUE. (a)
17 General revenue of the state may not be appropriated or used to fund
18 an activity or program of the institute if money from the state
19 highway fund could lawfully be appropriated and used to fund the
20 activity or program.

21 (b) In any request or proposal by the board to the
22 legislature, Legislative Budget Board, or Texas Higher Education
23 Coordinating Board for an appropriation for the institute, the
24 board shall include a description of each major activity or program
25 of the center and a statement of the board's opinion whether the
26 activity or program could be lawfully funded in whole or part by
27 money from the state highway fund.

1 SECTION 2G.02. Section 88.302, Education Code, as added by
2 this article, does not affect the validity of an appropriation made
3 to the Texas Transportation Institute before the effective date of
4 this article or the use of the appropriated money by the
5 institution.

6 ARTICLE 2H. UNCLAIMED PROPERTY

7 SECTION 2H.01. Section 72.101(a), Property Code, is amended
8 to read as follows:

9 (a) Except as provided by this section and Sections
10 ~~[Section]~~ 72.1015 and 72.102, personal property is presumed
11 abandoned if, for longer than three years:

12 (1) the existence and location of the owner of the
13 property is unknown to the holder of the property; and

14 (2) according to the knowledge and records of the
15 holder of the property, a claim to the property has not been
16 asserted or an act of ownership of the property has not been
17 exercised.

18 SECTION 2H.02. Subchapter B, Chapter 72, Property Code, is
19 amended by adding Section 72.1015 to read as follows:

20 Sec. 72.1015. UNCLAIMED WAGES. (a) In this section,
21 "wages" has the meaning assigned by Section 61.001, Labor Code.

22 (b) An amount of unclaimed wages is presumed abandoned if,
23 for longer than one year:

24 (1) the existence and location of the person to whom
25 the wages are owed is unknown to the holder of the wages; and

26 (2) according to the knowledge and records of the
27 holder of the wages, a claim to the wages has not been asserted or an

1 act of ownership of the wages has not been exercised.

2 ARTICLE 2I. IMPOSITION OF CERTAIN FEES

3 SECTION 2I.01. Subchapter B, Chapter 1052, Occupations
4 Code, is amended by adding Section 1052.0541 to read as follows:

5 Sec. 1052.0541. FEE INCREASE. (a) The fee for the issuance
6 of a certificate of registration under this chapter and the fee for
7 the renewal of a certificate of registration under this chapter is
8 increased by \$200.

9 (b) Of each fee increase collected, \$50 shall be deposited
10 in the foundation school fund and \$150 shall be deposited in the
11 general revenue fund.

12 SECTION 2I.02. Subchapter B, Chapter 1053, Occupations
13 Code, is amended by adding Section 1053.0521 to read as follows:

14 Sec. 1053.0521. FEE INCREASE. (a) The fee for the issuance
15 of a certificate of registration under this chapter and the fee for
16 the renewal of a certificate of registration under this chapter is
17 increased by \$200.

18 (b) Of each fee increase collected, \$50 shall be deposited
19 in the foundation school fund and \$150 shall be deposited in the
20 general revenue fund.

21 SECTION 2I.03. Subchapter D, Chapter 1071, Occupations
22 Code, is amended by adding Section 1071.1521 to read as follows:

23 Sec. 1071.1521. FEE INCREASE. (a) The fee for the issuance
24 of a certificate of registration to a registered professional land
25 surveyor under this chapter and the fee for the renewal of a
26 certificate of registration for a registered professional land
27 surveyor under this chapter is increased by \$200.

1 agencies for purposes of the appropriations process.

2 (b) The Legislative Budget Board shall keep the House
3 Appropriations Committee and the Senate Finance Committee informed
4 of the board's activities related to the development of the system
5 of performance measures.

6 (c) On request, a state agency shall provide information or
7 assistance to the Legislative Budget Board and the governor to
8 assist with the development of the system of performance measures.

9 SECTION 2J.02. Section 2056.002, Government Code, is
10 amended by adding Subsection (f) to read as follows:

11 (f) The Legislative Budget Board and the governor shall
12 develop recommendations for improvement of the strategic planning
13 process under this section. On request, a state agency shall assist
14 the Legislative Budget Board and the governor in developing
15 recommendations for improvement in accordance with this
16 subsection.

17 SECTION 2J.03. Subtitle C, Title 10, Government Code, is
18 amended by adding Chapter 2115 to read as follows:

19 CHAPTER 2115. RISK ASSESSMENT AND FINANCIAL CONTROL SYSTEMS

20 Sec. 2115.001. DEFINITION. In this chapter, "state agency"
21 means a department, commission, board, office, or other agency in
22 the executive, legislative, or judicial branch of state government
23 created by the constitution or a statute of this state, including an
24 institution of higher education as defined by Section 61.003,
25 Education Code, except a public junior college, and a
26 health-related institution that is associated with an institution
27 of higher education.

1 Sec. 2115.002. REPORT ON RISK ASSESSMENT AND FINANCIAL
2 CONTROL SYSTEMS. (a) Not later than September 30 of each year, the
3 executive director of a state agency and, for a state agency
4 governed by a board or similar body, the presiding officer of the
5 agency's governing body shall submit to the office of the governor,
6 the Legislative Budget Board, and the state auditor, a letter that
7 provides assurance about the state agency's risk assessment and
8 financial control systems.

9 (b) If the executive director and the presiding officer of
10 the agency's governing body agree on the content of the letter
11 required by this section, they shall jointly submit one letter for
12 the state agency. If the executive director and the presiding
13 officer do not agree on the content of the letter, they shall each
14 submit a separate letter in accordance with this section.

15 (c) A person submitting or jointly submitting a letter in
16 accordance with this section must sign the letter and, as
17 appropriate, attest in the letter that:

18 (1) the person has identified and reviewed risks that
19 may affect the state agency's operation and the achievement of its
20 mission;

21 (2) the person has taken appropriate action to manage
22 and reduce the actual and potential effects of the risks identified
23 under Subdivision (1) on the state agency;

24 (3) the person has reviewed the state agency's
25 financial control systems; and

26 (4) to the best of the person's knowledge after
27 reasonable efforts to obtain accurate information:

1 (A) the financial control systems identified
2 under Subdivision (3) protect the state's resources from
3 inappropriate use and fraud to the greatest extent possible; and

4 (B) as of the date the letter is submitted, the
5 financial statements and other financial information reported by
6 the state agency fairly represent the financial condition and
7 results of the agency's operations.

8 (d) If a person is unable to attest to any of the statements
9 under Subsection (c), the person must identify in the letter the
10 statement and the reason or reasons why the person is unable to
11 attest to it.

12 (e) A letter submitted under this section must identify any
13 ongoing or future planned actions to correct problems in or
14 strengthen the state agency's risk assessment or financial control
15 systems and the date the actions were, or are expected to be,
16 implemented.

17 (f) If a state agency fails to timely submit a letter in
18 accordance with this section, the state auditor shall report to any
19 relevant legislative committees the fact of the state agency's
20 failure to do so.

21 PART 3. MANAGEMENT OF STATE PROPERTY AND FACILITIES

22 ARTICLE 3A. FUEL SAVINGS FOR STATE AGENCIES

23 SECTION 3A.01. Chapter 447, Government Code, as amended by
24 Chapters 573, 1158, and 1398, Acts of the 77th Legislature, Regular
25 Session, 2001, is amended by adding Sections 447.012 and 447.013 to
26 read as follows:

27 Sec. 447.012. FUEL SAVINGS FOR STATE AGENCIES. (a) In this

section and in Section 447.013:

(1) "Cost-effective" means resulting in fuel consumption reduction with a projected savings in fuel cost over a one-year period that exceeds the cost of purchasing and using a technology.

(2) "Fuel-saving technology" means a:

(A) device containing no lead metal that is installed on a motor vehicle or non-road diesel and that has been proven to reduce fuel consumption per mile or per hour of operation by at least five percent;

(B) fuel additive registered in accordance with 40 C.F.R. Part 79 that contains no known mutagenic materials and that has been proven to reduce fuel consumption per mile or per hour of operation by at least five percent; or

(C) fuel registered in accordance with 40 C.F.R. Part 79 that contains no known mutagenic materials and that has been proven to reduce fuel consumption per mile or per hour of operation by at least five percent.

(3) "Motor vehicle" and "non-road diesel" have the meanings assigned by Section 386.101, Health and Safety Code.

(4) "Proven fuel-saving technologies" means technologies shown to reduce fuel use by at least five percent in:

(A) an Environmental Protection Agency fuel economy federal test protocol test performed at a laboratory recognized by the Environmental Protection Agency;

(B) a fuel economy test performed in accordance with protocols and at testing laboratories or facilities recognized

1 by the state energy conservation office, the Texas Commission on
2 Environmental Quality, or the Environmental Protection Agency; or

3 (C) a field demonstration performed in
4 accordance with Section 447.013.

5 (b) A state agency with 10 or more motor vehicles or
6 non-road diesels shall reduce the total fuel consumption of the
7 vehicles or diesels by at least five percent from fiscal year 2002
8 consumption levels through the use of cost-effective fuel-saving
9 technologies.

10 (c) A state agency may delay reducing fuel use as described
11 in this section until a list of proven fuel-saving technologies is
12 provided by the state energy conservation office as provided by
13 Section 447.013.

14 (d) A state agency may not purchase or use as a fuel-saving
15 technology a technology that:

16 (1) is known to increase oxides of nitrogen emissions
17 or toxic air contaminants; or

18 (2) may be reasonably concluded to degrade air quality
19 or human health or to negatively impact the environment.

20 (e) A state agency may purchase cost-effective fuel-saving
21 technologies out of the agency's fuel budget.

22 (f) A state agency shall competitively evaluate similar
23 fuel-saving technologies.

24 (g) A state agency may require a seller of a fuel-saving
25 technology to refund the cost of the technology if it is determined
26 to be ineffective at reducing fuel use by at least five percent
27 before the 91st day after the date the technology is first used by

1 the agency.

2 (h) A state agency may use fuel-saving technologies that the
3 agency determines are cost-effective and may use a fuel-saving
4 technology in applications that provide other benefits, including
5 emissions reductions.

6 (i) A state agency may establish a program for agency
7 employees to voluntarily:

8 (1) purchase fuel-saving technologies; and
9 (2) document reductions in fuel savings and air
10 emissions.

11 (j) A state agency shall annually report to the state energy
12 conservation office on a form provided by the office on the state
13 agency's efforts and progress under this section.

14 Sec. 447.013. FIELD DEMONSTRATIONS. (a) Under the
15 direction of the state energy conservation office, the Texas
16 Department of Transportation shall demonstrate the effectiveness
17 of at least four fuel-saving technologies on a combined maximum of
18 100 motor vehicles or non-road diesels in accordance with this
19 section to determine the fuel-saving technologies that may
20 cost-effectively reduce fuel consumption and save state revenue.

21 (b) Varying ages and types of motor vehicles and non-road
22 diesels shall be selected to demonstrate the fuel-saving
23 technologies. Preference shall be given to high-use motor vehicles
24 and non-road diesels in the selection.

25 (c) The Texas Department of Transportation shall
26 demonstrate the performance of fuel-saving technologies by:

27 (1) assessing a technology's performance in the normal

1 course of operations of motor vehicles or non-road diesels; and

2 (2) performing controlled field tests.

3 (d) In selecting the technologies to be evaluated, the state
4 energy conservation office shall:

5 (1) consult with governmental and business
6 organizations that are currently using fuel-saving technology;

7 (2) consider technologies that are proven fuel-saving
8 technologies that have demonstrated fuel economy benefits of five
9 percent or more in field tests or recorded use data of government
10 organizations or businesses that operate fleets; and

11 (3) determine whether each technology selected has the
12 potential to be cost-effective.

13 (e) A fuel-saving technology may be disqualified from being
14 demonstrated or used if it is known to reduce engine performance,
15 reduce the life of the engine, require additional maintenance
16 expenses, or degrade air quality.

17 (f) The Texas Council on Environmental Technology, The
18 University of Texas Center for Transportation Research, the
19 University of Houston Diesel Emissions Center, or another agency
20 may be designated to assist with executing the demonstration,
21 compiling the results, estimating the potential average fuel
22 savings of the technologies in different applications, or preparing
23 a final report.

24 (g) On completing the demonstration described by this
25 section the state energy conservation office shall rank the
26 fuel-saving technologies based on their fuel savings, other cost
27 savings, and overall cost-effectiveness. The office shall:

1 (1) list recommended applications of the
2 technologies;

3 (2) document other negative or positive effects; and

4 (3) prepare a concise report of these findings.

5 (h) The Texas Council on Environmental Technology shall
6 obtain information on any fuel-saving technology that appears to
7 reduce particulate matter, oxides of nitrogen, carbon monoxide, or
8 hydrocarbon emissions. The Texas Council on Environmental
9 Technology may use this information to fund the Environmental
10 Protection Agency verification of a technology in accordance with
11 Section 387.003, Health and Safety Code.

12 (i) The state energy conservation office shall provide the
13 report prepared under Subsection (g) to each state agency with 10 or
14 more motor vehicles or non-road diesels and to the Legislative
15 Budget Board.

16 (j) The demonstration and associated reports described by
17 this section shall be completed not later than September 1, 2004.

18 (k) All results of a demonstration project under this
19 section shall be made public on the state energy conservation
20 office's Internet website.

21 (l) The state energy conservation office shall provide
22 quarterly an updated list of all proven fuel-saving technologies on
23 its Internet website.

24 (m) Money from the state highway fund may not be used for the
25 purchase, installation, maintenance, or operation of the
26 fuel-saving technologies being assessed or subjected to controlled
27 field tests under this section. Repairs to state equipment

1 resulting from demonstrations of fuel-saving technologies must be
2 paid from the same funds used to implement this section.

3 ARTICLE 3B. FACILITIES MANAGEMENT SERVICES

4 SECTION 3B.01. Subchapter A, Chapter 2165, Government Code,
5 is amended by adding Section 2165.007 to read as follows:

6 Sec. 2165.007. FACILITIES MANAGEMENT SERVICES. (a) In this
7 section, "facilities management services" means any state agency
8 facilities management service that is not unique to carrying out a
9 program of the agency. The term includes services related to
10 facilities construction, facilities management, general building
11 and grounds maintenance, cabling, and facility reconfiguration.

12 (b) Notwithstanding any other law, the commission shall
13 provide facilities management services in relation to all state
14 agency facilities in Travis County or a county adjacent to Travis
15 County. The commission's duty does not apply to:

16 (1) a facility owned or operated by an institution of
17 higher education;

18 (2) military facilities;

19 (3) prison facilities;

20 (4) the Capitol, including the Capitol Extension, the
21 General Land Office building, and any museum located on the Capitol
22 grounds; or

23 (5) a facility determined by the commission to be
24 completely residential.

25 SECTION 3B.02. Subchapter B, Chapter 2165, Government Code,
26 is amended by adding Section 2165.057 to read as follows:

27 Sec. 2165.057. MANAGEMENT OF FACILITIES. (a) The

1 commission shall develop and implement policies that clearly define
2 the responsibilities of the commission and the commission's staff
3 that relate to conducting facilities management services for state
4 agency facilities under Section 2165.007.

5 (b) The state energy conservation office shall provide
6 utility management services for state agency facilities for which
7 the commission provides facilities management services under
8 Section 2165.007.

9 SECTION 3B.03. On September 1, 2003:

10 (1) all powers and duties of a state agency that relate
11 to the facilities management services treated by Section
12 2165.007(b), Government Code, as added by this Act, are transferred
13 to the Texas Building and Procurement Commission or the state
14 energy conservation office, as appropriate;

15 (2) all obligations and contracts of a state agency
16 that relate to the transferred services are transferred to the
17 Texas Building and Procurement Commission or the state energy
18 conservation office, as appropriate;

19 (3) all records and other property in the custody of a
20 state agency that relate to the transferred services and all funds
21 appropriated by the legislature to a state agency that relate to the
22 transferred services are transferred to the Texas Building and
23 Procurement Commission or the state energy conservation office, as
24 appropriate;

25 (4) all complaints and investigations that are pending
26 before a state agency that relate to the transferred services are
27 transferred without change in status to the Texas Building and

1 Procurement Commission or the state energy conservation office, as
2 appropriate; and

3 (5) a rule or form adopted by a state agency that
4 relates to the transferred services is considered to be a rule or
5 form of the Texas Building and Procurement Commission and remains
6 in effect until altered by the commission or the state energy
7 conservation office, as appropriate.

8 ARTICLE 3C. RECYCLING MARKET DEVELOPMENT

9 SECTION 3C.01. Section 2155.448(a), Government Code, is
10 amended to read as follows:

11 (a) Each state fiscal year, the commission[~~, in~~
12 ~~coordination with the Recycling Market Development Board,~~] by rule
13 may identify recycled, remanufactured, or environmentally
14 sensitive commodities or services, as those terms are defined by
15 rule of the commission, and designate purchasing goals for the
16 procurement of those commodities and services by state agencies for
17 that fiscal year.

18 SECTION 3C.02. Section 361.423, Health and Safety Code, is
19 amended to read as follows:

20 Sec. 361.423. RECYCLING MARKET DEVELOPMENT [~~BOARD AND~~]
21 IMPLEMENTATION PROGRAM. (a) The governor's office, the commission,
22 the Texas Department of Economic Development, and the Texas
23 Building and Procurement Commission [~~The commissioner of the~~
24 ~~General Land Office, the chairman of the commission, the executive~~
25 ~~director of the General Services Commission, and the executive~~
26 ~~director of the Texas Department of Commerce shall constitute the~~
27 ~~Recycling Market Development Board. The commissioner of the~~

1 ~~General Land Office serves as presiding officer of the Recycling~~
2 ~~Market Development Board for the first year, and after that year the~~
3 ~~members of the Recycling Market Development Board shall, in the~~
4 ~~order listed in this subsection, rotate as the presiding officer~~
5 ~~for terms of one year. The Recycling Market Development Board may~~
6 ~~designate chief executives of additional agencies as members of the~~
7 ~~board if it identifies the agencies as agencies needed to assist the~~
8 ~~board in performing its duties as outlined in Subsection (b). The~~
9 ~~Recycling Market Development Board]~~ shall [provide support to and]
10 coordinate their [the] recycling activities [of member agencies]
11 and shall each pursue an economic development strategy that focuses
12 on the state's waste management priorities established by Section
13 361.022 and that includes development of recycling industries and
14 markets as an integrated component.

15 (b) The governor's office, the commission, the Texas
16 Department of Economic Development, and the Texas Building and
17 Procurement Commission [~~Recycling Market Development Board~~], on an
18 ongoing basis, shall jointly:

19 (1) identify existing economic and regulatory
20 incentives and disincentives for creating an optimal market
21 development strategy;

22 (2) analyze the market development implications of:

23 (A) the state's waste management policies and
24 regulations;

25 (B) existing and potential markets for plastic,
26 glass, paper, lead-acid batteries, tires, compost, scrap gypsum,
27 coal combustion by-products, and other recyclable materials; and

1 (C) the state's tax structure and overall
2 economic base;

3 (3) examine and make policy recommendations regarding
4 the need for changes in or the development of:

5 (A) economic policies that affect
6 transportation, such as those embodied in freight rate schedules;

7 (B) tax incentives and disincentives;

8 (C) the availability of financial capital
9 including grants, loans, and venture capital;

10 (D) enterprise zones;

11 (E) managerial and technical assistance;

12 (F) job-training programs;

13 (G) strategies for matching market supply and
14 market demand for recyclable materials, including intrastate and
15 interstate coordination;

16 (H) the state recycling goal;

17 (I) public-private partnerships;

18 (J) research and development;

19 (K) government procurement policies;

20 (L) educational programs for the public,
21 corporate and regulated communities, and government entities; and

22 (M) public health and safety regulatory
23 policies;

24 (4) establish a comprehensive statewide strategy to
25 expand markets for recycled products in Texas;

26 (5) provide information and technical assistance to
27 small and disadvantaged businesses, business development centers,

1 chambers of commerce, educational institutions, and nonprofit
2 associations on market opportunities in the area of recycling; and

3 (6) with the cooperation of the Office of
4 State-Federal Relations, assist communities and private entities
5 in identifying state and federal grants pertaining to recycling and
6 solid waste management.

7 (c) In carrying out this section, the governor's office, the
8 commission, the Texas Department of Economic Development, and the
9 Texas Building and Procurement Commission [~~responsible agencies~~]
10 may obtain research and development and technical assistance from
11 the Hazardous Waste Research Center at Lamar University at Beaumont
12 or other similar institutions.

13 (d) The General Land Office shall provide ongoing research
14 and assistance to the governor's office, the commission, the Texas
15 Department of Economic Development, and the Texas Building and
16 Procurement Commission [~~Recycling Market Development Board~~] in
17 carrying out their [~~its~~] responsibilities.

18 SECTION 3C.03. (a) The Recycling Market Development Board
19 is abolished, and the offices of the members of the board and the
20 positions of the employees of the board are abolished.

21 (b) The validity of an action taken by the Recycling Market
22 Development Board before it is abolished under Subsection (a) of
23 this section is not affected by the abolishment.

24 (c) On the effective date of this article, all functions and
25 activities performed by the Recycling Market Development Board
26 immediately before that date are transferred to the governor's
27 office, the Texas Commission on Environmental Quality, the Texas

1 Department of Economic Development, and the Texas Building and
2 Procurement Commission, as provided by this article.

3 ARTICLE 3D. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES

4 SECTION 3D.01. Subchapter E, Chapter 2165, Government Code,
5 is amended by adding Section 2165.2035 to read as follows:

6 Sec. 2165.2035. LEASE OF SPACE IN STATE-OWNED PARKING LOTS
7 AND GARAGES. (a) In this section, "lease" includes a management
8 agreement.

9 (b) The commission shall develop private, commercial uses
10 for state-owned parking lots and garages located in the city of
11 Austin at locations the commission determines are appropriate for
12 commercial uses.

13 (c) The commission may contract with a private vendor to
14 manage the commercial use of state-owned parking lots and garages.

15 (d) Money received from a lease under this program shall be
16 deposited to the credit of the general revenue fund.

17 (e) On or before December 1 of each even-numbered year, the
18 commission shall submit a report to the legislature and the
19 Legislative Budget Board describing the effectiveness of the
20 program under this section.

21 (f) The limitation on the amount of space allocated to
22 private tenants prescribed by Section 2165.205(b) does not apply to
23 the lease of a state-owned parking lot or garage under this section.

24 (g) Any lease of a state-owned parking lot or garage under
25 this section must contain a provision that allows state employees
26 who work hours other than regular working hours under Section
27 658.005 to retain their parking privileges in a state-owned parking

1 lot or garage.

2 ARTICLE 3E. LEASE OF SPACE FOR STATE AGENCIES

3 SECTION 3E.01. Section 2167.001, Government Code, is
4 amended to read as follows:

5 Sec. 2167.001. APPLICABILITY. (a) This chapter applies
6 to:

- 7 (1) office space;
8 (2) warehouse space;
9 (3) laboratory space;
10 (4) storage space exceeding 1,000 gross square feet;
11 ~~[and]~~
12 (5) boat storage space;
13 (6) aircraft hangar space;
14 (7) vehicle parking space; and
15 (8) a combination of those kinds of space.

16 (b) This chapter does not apply to:

- 17 (1) ~~[aircraft hangar space,~~
18 ~~(2)]~~ radio antenna space;
19 (2) ~~(3)]~~ ~~boat storage space,~~
20 ~~(4)]~~ ~~vehicle parking space,~~
21 ~~(5)]~~ residential space for a Texas Department of
22 Mental Health and Mental Retardation program;
23 (3) ~~(6)]~~ residential space for a Texas Youth
24 Commission program;
25 (4) ~~(7)]~~ space to be used for less than one month for
26 meetings, conferences, conventions, seminars, displays,
27 examinations, auctions, or similar purposes;

1 (5) [~~(8)~~] district office space for members of the
2 legislature;

3 (6) [~~(9)~~] space used by the Texas Workforce
4 [~~Employment~~] Commission;

5 (7) [~~(10)~~] residential property acquired by the Texas
6 Department of Housing and Community Affairs or the Texas State
7 Affordable Housing Corporation that is offered for sale or rental
8 to individuals and families of low or very low income or families of
9 moderate income; or

10 (8) [~~(11)~~] except as provided by Section 2167.007,
11 classroom and instructional space for an institution of higher
12 education.

13 SECTION 3E.02. Section 2167.005, Government Code, is
14 amended by adding Subsection (d) to read as follows:

15 (d) The commission may revoke a delegation of authority made
16 under this section.

17 SECTION 3E.03. Section 2167.007(c), Government Code, is
18 amended to read as follows:

19 (c) The commission may [~~shall~~] establish a system of charges
20 and billings to assure the recovery of the cost of providing
21 services under Subsection (a) and may [~~shall~~] submit, after the
22 close of each month, a purchase voucher or journal voucher to an
23 agency for which services were provided.

24 SECTION 3E.04. Section 2167.054(d), Government Code, is
25 amended to read as follows:

26 (d) As provided in a request for proposals and under rules
27 adopted by the commission, the commission may discuss acceptable or

1 potentially acceptable proposals with offerors to assess an
2 offeror's ability to meet the solicitation requirements and to
3 obtain the most advantageous lease contract for the state. The
4 commission may [~~shall~~] invite a leasing state agency to participate
5 in discussions and negotiations conducted under this section.
6 After receiving a proposal but before making an award, the
7 commission may permit the offeror to revise the proposal to obtain
8 the best final proposal.

9 SECTION 3E.05. Sections 2167.055(d) and (f), Government
10 Code, are amended to read as follows:

11 (d) A lease contract that does not contain an option to
12 renew may, on agreement of the parties, be renewed under terms to
13 which all parties to the contract agree [~~once under the provisions~~
14 ~~of the original contract for a term that does not exceed one year~~].

15 (f) The obligation of the lessor to provide lease space and
16 of the commission to accept the space is binding on the execution of
17 the lease [~~award of the~~] contract.

18 SECTION 3E.06. Section 2167.101, Government Code, is
19 amended to read as follows:

20 Sec. 2167.101. CERTIFICATION OF AVAILABLE MONEY. A state
21 agency occupying space leased under this chapter shall certify to
22 the commission, at least 60 days before the beginning of each fiscal
23 biennium during the lease term, that money is available to pay for
24 the lease until the end of the next fiscal biennium.

25 SECTION 3E.07. The following laws are repealed:

- 26 (1) Section 2167.003(c), Government Code;
27 (2) Section 2167.004(b), Government Code; and

1 (3) Section 2167.106, Government Code.

2 SECTION 3E.08. A lease contract entered into by the Texas
3 Building and Procurement Commission before September 1, 2003, under
4 Chapter 2167, Government Code, is governed during the remaining
5 term of the lease by Chapter 2167, Government Code, as it existed
6 immediately before September 1, 2003, and the prior law is
7 continued in effect for this purpose. Chapter 2167, Government
8 Code, as amended by this article, applies to the renewal of a lease
9 described by this section.

10 ARTICLE 3F. SALE OF BULL CREEK CAMPUS

11 SECTION 3F.01. (a) The Texas Transportation Commission
12 may sell the tract of land comprising the Texas Department of
13 Transportation's Bull Creek campus at Bull Creek Road and 45th
14 Street in Austin in accordance with the procedures for disposal of
15 surplus land acquired for highway purposes under Subchapter B,
16 Chapter 202, Transportation Code.

17 (b) The commission may retain ownership and control of:

18 (1) the portion of the Bull Creek campus used on the
19 effective date of this Act for the operations of the department's
20 motor carrier division; and

21 (2) the parking facilities on Bull Creek Road used to
22 serve the Bull Creek campus and the department's Camp Hubbard
23 campus.

24 (c) Revenue from the sale of this property shall be
25 deposited to the credit of the state highway fund.

26 (d) Before September 1, 2005, the commission may purchase or
27 acquire by exercise of the power of eminent domain any portion of

1 the property formerly owned by the State Aircraft Pooling Board
2 located at the site of the former Robert Mueller Municipal Airport
3 in Austin that the commission determines is needed:

4 (1) as a replacement for property sold under
5 Subsection (a) of this section;

6 (2) for the operation of an intelligent transportation
7 system; and

8 (3) to locate other department facilities or offices.

9 (e) The department may relocate its displaced operations
10 from the Bull Creek campus to the replacement property. If the
11 property formerly owned by the State Aircraft Pooling Board is not
12 sufficient for the department's needs to relocate displaced
13 operations and for other facilities or offices, the commission may
14 also purchase or acquire by exercise of the power of eminent domain
15 any property adjacent to that property that the commission
16 determines necessary.

17 (f) This section does not require the commission to relocate
18 all or a portion of the department's displaced operations from the
19 Bull Creek campus to property acquired under this section.

20 (g) Section 31.158, Natural Resources Code, does not apply
21 to a transaction authorized by this section.

22 ARTICLE 3G. ALLOCATION OF OFFICE SPACE TO STATE AGENCIES

23 SECTION 3G.01. Section 2165.104(c), Government Code, is
24 amended to read as follows:

25 (c) To the extent possible without sacrificing critical
26 public or client services, the commission may not allocate usable
27 office space, as defined by the commission, to a state agency under

Article I, II, V, VI, VII, or VIII of the General Appropriations Act or to the Texas Higher Education Coordinating Board, the Texas Education Agency, the State Board for Educator Certification, the Telecommunications Infrastructure Fund Board, or the Office of Court Administration of the Texas Judicial System in an amount that exceeds an average of 135 ~~[153]~~ square feet per agency employee for each agency site. To the extent that any of those agencies allocates its own usable office space, as defined by the commission, the agency shall allocate the space to achieve the required ratio. This subsection does not apply to:

(1) an agency site at which there are so few employees that it is not practical to apply this subsection to that site, as determined by the commission ~~[fewer than 16 employees are located];~~ and

(2) an agency site at which it is not practical to apply this subsection because of the site's type of space or use of space, as determined by the commission ~~[warehouse space,~~

~~(3) laboratory space,~~

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

~~(5) library space,~~

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

~~(7) another type of space specified by commission rule, if the commission determines that it is not practical to apply this subsection to that space].~~

SECTION 3G.02. This article applies only to a lease for usable office space entered into or renewed on or after September 1,

1 2003. A lease entered into or renewed before September 1, 2003,
2 shall be reviewed by the Texas Building and Procurement Commission
3 as the lease comes up for renewal to determine whether it would be
4 cost-effective to bring the lease into compliance with Section
5 2165.104(c), Government Code, as amended by this article.

6 ARTICLE 3H. WRITTEN COMMENTS BY THE GENERAL LAND OFFICE ON TEXAS
7 BUILDING AND PROCUREMENT COMMISSION LEASES

8 SECTION 3H.01. The following sections are repealed:

- 9 (1) Section 2165.154, Government Code; and
10 (2) Section 2165.204, Government Code.

11 ARTICLE 3I. DEFINITION OF RECYCLED PRODUCT

12 SECTION 3I.01. Section 2155.445, Government Code, is
13 amended by adding Subsection (d) to read as follows:

14 (d) In addition to the products covered by the definition
15 adopted by rule under this section, in this section "recycled
16 product" includes recycled steel products. The preference for
17 recycled steel products under this section applies also to products
18 purchased in connection with projects described by Section
19 2166.003.

20 PART 4. MANAGEMENT OF INFORMATION TECHNOLOGY

21 ARTICLE 4A. OPERATING PLANS OF STATE AGENCIES

22 SECTION 4A.01. Section 2054.102, Government Code, is
23 amended to read as follows:

24 Sec. 2054.102. EVALUATION AND APPROVAL OF OPERATING PLANS.

25 (a) The Legislative Budget Board may specify procedures for the
26 submission, review, approval, and disapproval of biennial
27 operating plans and amendments, including procedures for review or

1 reconsideration of the Legislative Budget Board's disapproval of a
2 biennial operating plan or biennial operating plan amendment. The
3 Legislative Budget Board shall review and approve or disapprove the
4 biennial operating plan or biennial operating plan amendment not
5 later than the 60th day after the date the plan or amendment to the
6 plan is submitted. The plan or amendment to the plan is considered
7 to be approved on the 61st day after the date the plan or amendment
8 is submitted if the Legislative Budget Board does not disapprove
9 the plan or amendment before that date.

10 (b) The governing board of the department shall adopt rules
11 as necessary to establish department standards.

12 (c) The department shall provide the Legislative Budget
13 Board with a list of agencies that have not complied with department
14 standards, provisions of the state strategic plan, or corrective
15 action plans. An agency identified on a list under this subsection
16 shall develop a corrective action plan approved by the department
17 that specifies the manner in which deficiencies will be corrected
18 before components of or amendments to the agency's biennial
19 operating plan may be approved by the Legislative Budget Board.

20 ARTICLE 4B. TEXASONLINE AUTHORITY

21 SECTION 4B.01. Section 2054.111(e), Government Code, is
22 amended to read as follows:

23 (e) A state agency or local government that uses the project
24 may charge a fee if:

25 (1) the fee is necessary to recover the actual costs
26 directly and reasonably incurred by the agency or local government
27 because of the project for:

1 (A) the use of electronic payment methods; or
2 (B) interfacing with other information
3 technology systems;

4 (2) the fee does not include an amount to recover state
5 agency or local government employee costs;

6 (3) the state agency or local government approves the
7 amount of the fee using the state agency's or local government's
8 standard approval process for fee increases;

9 (4) the chief financial officer for the state agency
10 or local government certifies that the amount of the fee is
11 necessary to recover the actual costs incurred because of the
12 project; and

13 (5) [42] the authority approves the amount of the
14 fee.

15 SECTION 4B.02. Subchapter F, Chapter 2054, Government Code,
16 is amended by adding Section 2054.1115 to read as follows:

17 Sec. 2054.1115. ELECTRONIC PAYMENTS ON TEXASONLINE. (a) A
18 state agency or local government that uses TexasOnline may use
19 electronic payment methods, including the acceptance of credit and
20 debit cards, for points of sale, telephone, or mail transactions.

21 (b) The state agency or local government may charge a
22 reasonable fee, as provided by Section 2054.111, to recover costs
23 incurred through electronic payment methods used under this
24 section.

25 SECTION 4B.03. Section 2054.113, Government Code, is
26 amended by adding Subsections (c) and (d) to read as follows:

27 (c) A state agency may not contract with a third party to

1 develop an Internet application that duplicates a TexasOnline
2 function unless the agency has notified and provided the authority
3 the opportunity to bid on the contract at the same time as third
4 parties are provided the opportunity to bid.

5 (d) The program management office may exempt a state agency
6 from this section if the office determines that the agency has fully
7 complied with Section 2054.111.

8 SECTION 4B.04. Section 2054.125, Government Code, is
9 amended by adding Subsection (d) to read as follows:

10 (d) Each state agency that maintains a generally accessible
11 Internet site shall include a link to TexasOnline on the front page
12 of the Internet site.

13 SECTION 4B.05. Section 2054.251(5), Government Code, as
14 added by Chapter 342, Acts of the 77th Legislature, Regular
15 Session, 2001, is amended to read as follows:

16 (5) "Occupational license" means a license,
17 certificate, registration, permit, or other form of authorization,
18 including a renewal of the authorization, that:

19 (A) a person must obtain to practice or engage in
20 a particular business, occupation, or profession; or

21 (B) a facility must obtain before a particular
22 business, occupation, or profession is practiced or engaged in
23 within the facility.

24 SECTION 4B.06. Section 2054.251, Government Code, as added
25 by Chapter 353, Acts of the 77th Legislature, Regular Session,
26 2001, is amended to read as follows:

27 Sec. 2054.251. DEFINITIONS. In this subchapter,

1 "authority," "licensing entity," and "occupational [÷

2 [~~(1) "Licensing authority" means a department,~~
3 ~~commission, board, office, or other agency of the state or a~~
4 ~~political subdivision of the state that issues an occupational~~
5 ~~license.~~

6 [~~(2) "Occupational~~ license" have the meanings
7 assigned those terms by Section 2054.251, as added by Chapter 342,
8 Acts of the 77th Legislature, Regular Session, 2001 [~~means a~~
9 ~~license, certificate, registration, or other form of authorization~~
10 ~~that a person must obtain to practice or engage in a particular~~
11 ~~business, occupation, or profession].~~

12 SECTION 4B.07. Section 2054.252(d), Government Code, as
13 added by Chapter 342, Acts of the 77th Legislature, Regular
14 Session, 2001, is amended to read as follows:

15 (d) The department [~~authority~~] may contract with a private
16 vendor to implement this section.

17 SECTION 4B.08. Section 2054.252, Government Code, as added
18 by Chapter 353, Acts of the 77th Legislature, Regular Session,
19 2001, is amended to read as follows:

20 Sec. 2054.252. APPLICABILITY. (a) The following licensing
21 entities [~~authorities~~] shall participate in the system established
22 under Section 2054.253, as added by Chapter 353, Acts of the 77th
23 Legislature, Regular Session, 2001:

- 24 (1) State Board of Barber Examiners;
25 (2) Texas Board of Chiropractic Examiners;
26 (3) Texas Cosmetology Commission;
27 (4) Court Reporters Certification Board;

- 1 (5) State Board of Dental Examiners;
- 2 (6) Texas Funeral Service Commission;
- 3 (7) Texas Board of Professional Land Surveying;
- 4 (8) Texas State Board of Medical Examiners;
- 5 (9) Board of Nurse Examiners;
- 6 (10) Board of Vocational Nurse Examiners;
- 7 (11) Texas Optometry Board;
- 8 (12) Texas Structural Pest Control Board;
- 9 (13) Texas State Board of Pharmacy;
- 10 (14) Executive Council of Physical Therapy and
- 11 Occupational Therapy Examiners;
- 12 (15) Texas State Board of Plumbing Examiners;
- 13 (16) Texas State Board of Podiatric Medical Examiners;
- 14 (17) Board of Tax Professional Examiners;
- 15 (18) Polygraph Examiners Board;
- 16 (19) Texas State Board of Examiners of Psychologists;
- 17 (20) State Board of Veterinary Medical Examiners;
- 18 (21) Texas Real Estate Commission;
- 19 (22) Texas Appraiser Licensing and Certification
- 20 Board; ~~and~~
- 21 (23) Texas Department of Licensing and Regulation;
- 22 (24) Texas State Board of Public Accountancy;
- 23 (25) State Board for Educator Certification;
- 24 (26) Texas Board of Professional Engineers;
- 25 (27) Texas Department of Health;
- 26 (28) Texas Board of Architectural Examiners;
- 27 (29) Texas Racing Commission;

1 (30) Commission on Law Enforcement Officer Standards
2 and Education; and

3 (31) Texas Commission on Private Security.

4 (b) The authority ~~[comptroller]~~ may add additional agencies
5 as system capabilities are developed.

6 (c) A licensing entity ~~[authority]~~ other than an entity
7 ~~[authority]~~ listed by Subsection (a) may participate in the system
8 established under Section 2054.253, as added by Chapter 353, Acts
9 of the 77th Legislature, Regular Session, 2001, subject to the
10 approval of the authority ~~[department]~~.

11 SECTION 4B.09. Section 2054.253(a), Government Code, as
12 added by Chapter 342, Acts of the 77th Legislature, Regular
13 Session, 2001, is amended to read as follows:

14 (a) The authority consists of the comptroller, who serves ex
15 officio, or the designee of the comptroller, a member of the board
16 of the department who serves ex officio at the pleasure of the
17 governor, and 15 members appointed~~[7]~~ as follows:

18 (1) ~~[a representative of each of the following state~~
19 ~~officers or agencies appointed by the state officer or the~~
20 ~~governing body of the agency.]~~

21 ~~[(A) the comptroller, and~~

22 ~~[(B) the department,~~

23 ~~[(2)]~~ three representatives of local governments
24 appointed by the governor, including one representative from a
25 junior college district;

26 (2) ~~[(3)]~~ three representatives of businesses that
27 are regulated by a state agency or local government, appointed by

1 the governor, including one representative from a rural area;

2 (3) [~~(4)~~] four representatives of state agencies,
3 including an institution of higher education other than a junior
4 college district, appointed by the governor, including one
5 representative from a rural area; and

6 (4) five [~~(5) three~~] public members appointed by the
7 governor, including one representative from a rural area.

8 SECTION 4B.10. Section 2054.253, Government Code, as added
9 by Chapter 353, Acts of the 77th Legislature, Regular Session,
10 2001, is amended to read as follows:

11 Sec. 2054.253. ELECTRONIC SYSTEM FOR OCCUPATIONAL
12 LICENSING TRANSACTIONS. (a) The authority [~~department~~] shall
13 administer a common electronic system using the Internet through
14 which a licensing entity [~~authority~~] can electronically:

15 (1) send occupational licenses and other documents to
16 persons regulated by the authority and to the public;

17 (2) receive applications for occupational licenses
18 and other documents for filing from persons regulated by the
19 authority and from the public, including documents that can be
20 electronically signed if necessary; and

21 (3) receive required payments from persons regulated
22 by the authority and from the public.

23 (b) The authority [~~department~~] may implement this section
24 in phases. Each licensing entity [~~authority~~] that participates in
25 the system established under this section shall comply with the
26 schedule established by the authority [~~department~~].

27 (c) The authority [~~department~~] may use any Internet portal

1 established under a demonstration project administered by the
2 authority ~~[department]~~.

3 (d) ~~[The department may contract with a private vendor to~~
4 ~~implement this section. A contract under this subsection is~~
5 ~~payable only from fees collected under Subsection (e).]~~

6 ~~[(e)]~~ The authority ~~[department]~~ shall charge fees to
7 licensing entities in amounts sufficient to cover the cost of
8 implementing this section. The authority shall ~~[department may]~~
9 charge~~[-~~

10 ~~[(1) a transaction fee for each transaction performed~~
11 ~~on the system; and~~

12 ~~[(2)]~~ a subscription fee to be paid by each licensing
13 entity ~~[authority that participates in the system]~~.

14 (e) Each licensing entity shall increase the occupational
15 license issuance or renewal fees imposed by the licensing entity by
16 an amount sufficient to cover the cost of the subscription fee
17 imposed on the licensing entity under Subsection (d) but not to
18 exceed:

19 (1) \$5 per year for an occupational license;
20 (2) \$10 for a biennial occupational license; or
21 (3) the amount necessary to recover the cost of the
22 subscription fee imposed on the licensing entity under Subsection
23 (d) for an occupational license that is a permit or that is issued
24 for a facility.

25 (f) The authority may charge a reasonable convenience fee to
26 a license holder who who uses the system for on-line issuance or
27 renewal of a license if the authority determines that the

1 transaction costs exceed the maximum increase in occupational
2 license issuance or renewal fees allowed under Subsection (e).

3 (g) The authority may exempt a licensing entity from the
4 requirements of this section if the authority determines that:

5 (1) the licensing entity has established an Internet
6 portal that is performing the functions described by Subsection
7 (a); or

8 (2) on-line license renewal for the licensing entity
9 would not be cost-effective or in the best interest of the project.

10 SECTION 4B.11. Sections 2054.254(a), (b), and (c),
11 Government Code, as added by Chapter 353, Acts of the 77th
12 Legislature, Regular Session, 2001, are amended to read as follows:

13 (a) The steering committee for electronic occupational
14 licensing transactions consists of a representative of each of the
15 following, appointed by its governing body:

16 (1) each licensing entity [~~authority~~] listed by
17 Section 2054.252(a), as added by Chapter 353, Acts of the 77th
18 Legislature, Regular Session, 2001; and

19 (2) the department.

20 (b) The governing body of a licensing entity [~~authority~~]
21 described by Section 2054.252(c), as added by Chapter 353, Acts of
22 the 77th Legislature, Regular Session, 2001, may appoint a
23 representative to the committee.

24 (c) A member of the committee serves at the will of the
25 entity [~~authority~~] that appointed the member.

26 SECTION 4B.12. Section 2054.255, Government Code, is
27 amended to read as follows:

1 Sec. 2054.255. PRESIDING OFFICER. The governor shall
2 designate one member of the authority as [~~representing the~~
3 ~~department is~~] the presiding officer of the authority to serve in
4 that capacity at the pleasure of the governor.

5 SECTION 4B.13. Section 2054.259, Government Code, is
6 amended to read as follows:

7 Sec. 2054.259. GENERAL POWERS AND DUTIES OF TEXASONLINE
8 AUTHORITY. The authority shall:

9 (1) develop policies related to operation of the
10 project;

11 (2) approve or disapprove [~~consider~~] services to be
12 provided by the project;

13 (3) operate and promote the project;

14 (4) oversee [~~manage~~] contract performance for the
15 project;

16 (5) comply with department financial requirements;

17 (6) oversee money generated for the operation and
18 expansion of the project;

19 (7) develop project pricing policies, including
20 policies regarding any fees that a state agency or local government
21 may charge for a transaction that uses the project;

22 (8) evaluate participation in the project to determine
23 if performance efficiencies or other benefits and opportunities are
24 gained through project implementation;

25 (9) advise the department about the project; and

26 (10) coordinate with the department to receive
27 periodic security audits of the operational facilities of the

1 project.

2 SECTION 4B.14. Subchapter I, Chapter 2054, Government Code,
3 as added by Chapter 342, Acts of the 77th Legislature, Regular
4 Session, 2001, is amended by adding Sections 2054.268, 2054.269,
5 2054.270, and 2054.271 to read as follows:

6 Sec. 2054.268. CONTRACTS; CONFLICT OF INTEREST. A contract
7 entered into between the authority and another state agency or a
8 local government is not void for the sole reason that a member of
9 the authority also serves on the governing body of the state agency
10 or local government with whom the contract was entered.

11 Sec. 2054.269. INTELLECTUAL PROPERTY RIGHTS. The
12 department may exercise all intellectual property rights regarding
13 the project, including prevention of other persons from using names
14 or designs similar to those used by the project to market products.

15 Sec. 2054.270. MOTOR VEHICLE REGISTRATIONS. For purposes
16 of this chapter, the renewal of a motor vehicle registration is a
17 state service.

18 Sec. 2054.271. AUTHENTICATION OF INDIVIDUAL IDENTITIES AND
19 SIGNATURES; RULES. (a) The authority or another state agency or
20 local government that uses TexasOnline may use the Department of
21 Public Safety's or another state agency's database, as appropriate,
22 to authenticate an individual's identity on TexasOnline.

23 (b) The authentication allowed by this section may be used
24 by the state agency or local government as an alternative to
25 requiring a notarized document, a document signed by a third party,
26 or an original signature on a document.

27 (c) The authority shall propose rules, which the board may

1 adopt, regarding the use of a standardized database for
2 authentication under this section.

3 SECTION 4B.15. Sections 2054.252(e), (f), and (g),
4 Government Code, as added by Chapter 342, Acts of the 77th
5 Legislature, Regular Session, 2001, and Section 2054.2645,
6 Government Code, are repealed.

7 SECTION 4B.16. (a) Not later than November 1, 2003, the
8 governor shall appoint the additional public members to serve on
9 the TexasOnline Authority, as required by Section 2054.253(a),
10 Government Code, as added by Chapter 342, Acts of the 77th
11 Legislature, Regular Session, 2001, and as amended by this Act.
12 One public member's term shall expire on February 1, 2005, and the
13 other public member's term shall expire on February 1, 2007.

14 (b) Not later than November 1, 2003, the governor shall
15 appoint a member of the governing board of the Department of
16 Information Resources to serve on the TexasOnline Authority, as
17 required by Section 2054.253(a), Government Code, as added by
18 Chapter 342, Acts of the 77th Legislature, Regular Session, 2001,
19 and as amended by this Act.

20 SECTION 4B.17. The Department of Information Resources
21 shall, in cooperation with the secretary of state, study the
22 feasibility of providing notary public services on the Internet.
23 If the department and the secretary of state determine the
24 feasibility to be sound, the department shall make recommendations
25 not later than January 1, 2005, to the 79th Legislature regarding
26 legislation to implement notary public services on the Internet.

27 SECTION 4B.18. This article takes effect immediately if

1 this Act receives a vote of two-thirds of all the members elected to
2 each house, as provided by Section 39, Article III, Texas
3 Constitution. If this Act does not receive the vote necessary for
4 immediate effect, this article takes effect September 1, 2003.

5 ARTICLE 4C. ON-LINE STATE BENEFITS SYSTEM

6 SECTION 4C.01. Subchapter F, Chapter 2054, Government Code,
7 is amended by adding Section 2054.131 to read as follows:

8 Sec. 2054.131. ELECTRONIC BENEFITS ENROLLMENT AND
9 ADMINISTRATION SYSTEM. (a) In this section, "work site benefits
10 plan" means a plan or other arrangement to provide to officers,
11 employees, or former officers or employees:

12 (1) insurance, including health, life, and disability
13 insurance and health benefits plans;

14 (2) flexible spending accounts; or

15 (3) savings or retirement benefits.

16 (b) If the comptroller determines that a cost savings may be
17 realized, the comptroller, through a private vendor selected under
18 this section, may implement a project that establishes a common
19 electronic infrastructure through which each state agency,
20 including any retirement system created by statute or by the
21 constitution, shall:

22 (1) require its work site benefits plan participants
23 to electronically:

24 (A) enroll in any work site benefits plans
25 provided to the person by the state or a state agency;

26 (B) add, change, or delete benefits;

27 (C) sign any payroll deduction agreements to

1 implement a contribution made to a plan in which the participant
2 enrolls;

3 (D) terminate participation in a voluntary plan;
4 (E) initiate account investment changes and
5 withdrawals in a retirement plan;

6 (F) obtain information regarding plan benefits;
7 and

8 (G) communicate with the plan administrator; and
9 (2) administer its work site benefits plans
10 electronically by using the project to:

11 (A) enroll new plan participants and, when
12 appropriate, terminate plan participation;

13 (B) generate eligibility and enrollment reports
14 for plan participants;

15 (C) link plan administration with payroll
16 administration to facilitate payroll deductions for a plan;

17 (D) facilitate single-source billing
18 arrangements between the agency and a plan provider; and

19 (E) transmit and receive information regarding
20 the plan.

21 (c) The electronic infrastructure established under
22 Subsection (a) may include TexasOnline, the Internet, intranets,
23 extranets, and wide area networks.

24 (d) If the comptroller implements an electronic
25 infrastructure project under this section, the comptroller shall
26 select and contract with a single private vendor to implement the
27 project. The contract must require the application of the project

1 to all state agencies without cost to the state until the project is
2 initially implemented.

3 (e) The private vendor selected under Subsection (d) must
4 offer existing information resources technology for use in the
5 project that:

6 (1) will be available to all state agencies, including
7 retirement systems;

8 (2) includes each agency's work site benefits plan
9 participants;

10 (3) will use, to the extent possible, the department's
11 information technology standards, including information security,
12 privacy and disaster recovery, and Internet-based technology
13 standards;

14 (4) includes applications and a supporting platform
15 that are already developed and used in connection with the
16 electronic enrollment of work site benefits plans offered by other
17 multiple plan providers;

18 (5) is available for use with a wide variety of plan
19 and benefit providers;

20 (6) can be easily modified to permit changes in
21 benefits offered by the state or a state agency;

22 (7) provides a solution to overcome limitations caused
23 by the incompatibility of different legacy systems used by
24 different state agencies and plan providers;

25 (8) is available for use over the Internet through
26 existing or new websites or portals; and

27 (9) is supported, to the extent necessary, by:

1 (A) laptop and desktop enrollment and
2 administration capabilities; and

3 (B) a telephone call center.

4 SECTION 4C.02. If the electronic infrastructure under
5 Section 2054.131, Government Code, as added by this article, is
6 established, the comptroller as soon as reasonably possible shall
7 develop a timetable and procedures under which each state agency
8 shall implement the electronic infrastructure project for use by
9 all work site benefits plan participants, including officers and
10 employees and former officers and employees.

11 ARTICLE 4D. TEXASONLINE AUTHORITY MEETING

12 SECTION 4D.01. Section 2054.256, Government Code, is
13 amended to read as follows:

14 Sec. 2054.256. MEETINGS. (a) The authority shall meet at
15 least quarterly.

16 (b) The authority may hold an open or closed meeting by
17 telephone conference subject to the requirements of Section
18 551.125(c)-(f).

19 ARTICLE 4E. TEXAS WORKFORCE COMMISSION COPIES

20 SECTION 4E.01. Section 301.082, Labor Code, is amended to
21 read as follows:

22 Sec. 301.082. COPIES OF RECORDS. (a) The executive
23 director may furnish an electronic, ~~[a]~~ photostatic, or certified
24 copy of a record in the commission's possession to a person entitled
25 to receive a copy of the record on application by the person.

26 (b) The executive director shall charge a reasonable fee in
27 an amount set by the commission for a copy of a record furnished

1 under this section. If an electronic record is furnished, the fee
2 charged must be sufficient to recover the costs incurred in
3 furnishing the electronic record, including the costs incurred for
4 processing credit card and debit card transactions.

5 (c) The executive director shall use TexasOnline to furnish
6 electronic records under this section. In this subsection,
7 "TexasOnline" has the meaning assigned by Section 2054.003,
8 Government Code.

9 ARTICLE 4F. INSPECTION CERTIFICATES

10 AND VERIFICATION FORMS

11 SECTION 4F.01. Sections 548.251 and 548.253,
12 Transportation Code, are amended to read as follows:

13 Sec. 548.251. DEPARTMENT TO PROVIDE INSPECTION
14 CERTIFICATES AND VERIFICATION FORMS. (a) The department shall
15 provide serially numbered inspection certificates and verification
16 forms to inspection stations. The department may issue a unique
17 inspection certificate for:

18 (1) a commercial motor vehicle inspected under Section
19 548.201; or

20 (2) a vehicle inspected under Subchapter F.

21 (b) The department may adopt rules that authorize an
22 inspection station to purchase inspection certificates by using the
23 TexasOnline project under Subchapter I, Chapter 2054, Government
24 Code, as added by Chapter 342, Acts of the 77th Legislature, Regular
25 Session, 2001.

26 Sec. 548.253. INFORMATION TO BE RECORDED ON ISSUANCE OF
27 INSPECTION CERTIFICATE AND VERIFICATION FORM. (a) An inspection

station or inspector, on issuing an inspection certificate and verification form, shall:

(1) make a record and report as prescribed by the department of the inspection and certificate issued; and

(2) include in the inspection certificate and verification form the information required by the department for the type of vehicle inspected.

(b) The department may adopt rules that authorize an inspection station to send a record, report, or information required by the department to the department by using the TexasOnline project under Subchapter I, Chapter 2054, Government Code, as added by Chapter 342, Acts of the 77th Legislature, Regular Session, 2001.

SECTION 4F.02. Subchapter H, Chapter 548, Transportation Code, is amended by adding Section 548.508 to read as follows:

Sec. 548.508. ADDITIONAL FEES INCURRED IN CONNECTION WITH USE OF TEXASONLINE PROJECT. (a) In addition to any other fee under this subchapter for inspection of a motor vehicle, including a commercial motor vehicle, an inspection station may charge and collect an amount in reasonable proportion to the costs incurred by the inspection station in connection with:

(1) the purchase of inspection certificates from the department under a rule adopted under Section 548.251(b); or

(2) the sending of records, reports, or information to the department under a rule adopted under Section 548.253(b).

(b) The department shall adopt rules to implement and administer this section.

PART 5. STATE CONTRACTING AND PROCUREMENT

ARTICLE 5A. OWNER-CONTROLLED INSURANCE PROGRAM

SECTION 5A.01. Subchapter B, Chapter 223, Transportation Code, is amended by adding Section 223.050 to read as follows:

Sec. 223.050. OWNER-CONTROLLED INSURANCE PROGRAM. (a) The department shall require each person who contracts with the department under this chapter to use the insurance program established under Subchapter F, Chapter 2158, Government Code. The department may grant an exemption to a person regarding use of the insurance program for a specific project.

(b) The department and the Texas Building and Procurement Commission shall enter into an interagency contract under which the Texas Building and Procurement Commission manages the insurance program described by Subsection (a) on behalf of the department and other users.

(c) The Texas Transportation Commission may adopt rules to implement this section.

SECTION 5A.02. Chapter 2158, Government Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. OWNER-CONTROLLED INSURANCE FOR PUBLIC WORKS

Sec. 2158.271. DEFINITIONS. In this subchapter:

(1) "Local government" means a county, municipality, special district, school district, junior college district, or other political subdivision of the state.

(2) "Owner-controlled insurance program" means a comprehensive and centrally controlled insurance program that provides broad and uniform insurance coverage to all participants,

1 including subcontractors and the governmental entity, in a public
2 works project.

3 (3) "Public works project" includes:

4 (A) a building construction or repair project
5 undertaken by or for a governmental entity;

6 (B) a transportation project undertaken by or for
7 a governmental entity, including a road or highway project; and

8 (C) other projects undertaken by or for a
9 governmental entity, such as the construction or repair of a dam,
10 water system, or sewer system, that are commonly considered public
11 works projects.

12 Sec. 2158.272. OWNER-CONTROLLED INSURANCE PROGRAM. (a)
13 The commission shall contract with one or more private vendors to
14 develop an owner-controlled insurance program for state agencies
15 that participate in public works projects.

16 (b) The owner-controlled insurance program may include
17 insurance for workers' compensation, employer's liability,
18 builder's risk, primary and excess liability, and environmental
19 liability insurance coverage.

20 (c) The program may not include commercial auto liability
21 coverage.

22 Sec. 2158.273. USE OF PROGRAM BY STATE AGENCIES. Each state
23 agency must use the owner-controlled insurance program for its
24 public works projects.

25 Sec. 2158.274. USE OF PROGRAM BY LOCAL GOVERNMENTS. A local
26 government, subject to the commission's approval, may use the
27 owner-controlled insurance program for its public works projects.

1 Sec. 2158.275. FEES. (a) The commission or the private
2 vendor may charge a reasonable fee to a state agency, local
3 government, or participant to use the owner-controlled insurance
4 program, including a reasonable share of costs to implement the
5 program.

6 (b) The fee may be based on a percentage of the contract or
7 public works project value.

8 Sec. 2158.276. RULES. The commission may adopt rules to
9 implement this subchapter.

10 SECTION 5A.03. Section 2166.258, Government Code, as
11 amended by Chapters 614 and 1422, Acts of the 77th Legislature,
12 Regular Session, 2001, is amended to read as follows:

13 Sec. 2166.258. COMMON SURETY [~~OR—INSURER~~]. (a) The
14 commission or an agency whose project is exempted from all or part
15 of this chapter under Section 2166.003 may negotiate an arrangement
16 advantageous to the state with a surety [~~or an insurer, as~~
17 ~~appropriate,~~] authorized to do business in this state to furnish
18 bonds[~~, insurance, or both~~] that a contractor or subcontractor is
19 required to execute or carry to receive a contract or subcontract on
20 a project administered by the commission or other agency.

21 (b) In accordance with Section 1, Chapter 87, Acts of the
22 56th Legislature, Regular Session, 1959 (Article 7.19-1, Vernon's
23 Texas Insurance Code), the commission or other agency may not
24 require a contractor or subcontractor for any public building or
25 other construction contract to obtain a surety bond from any
26 specific insurance or surety company, agent, or broker. To the
27 extent consistent with that law, the commission or other agency may

1 require a contractor or subcontractor to meet part or all of the
2 bonding [~~or insurance~~] requirements for the project under the
3 negotiated arrangement.

4 [~~(b) Except as provided by Subsection (c), notwithstanding~~
5 ~~Section 1, Chapter 87, Acts of the 56th Legislature, Regular~~
6 ~~Session, 1959 (Article 7.19-1, Vernon's Texas Insurance Code), the~~
7 ~~commission or other agency may require a contractor or~~
8 ~~subcontractor to meet part or all of the bonding or insurance~~
9 ~~requirements for the project under the arrangement negotiated by~~
10 ~~the commission or other agency.~~]

11 (c) For the purposes of this section, the commission
12 [~~General Services Commission~~] shall establish a program to provide
13 surety technical assistance services for the benefit of small
14 businesses and historically underutilized businesses. The
15 commission may contract with insurance companies, surety
16 companies, agents, or brokers to implement this program.

17 (d) [~~(c)~~] To assist historically underutilized businesses,
18 small businesses, or any other businesses, if an agency by rule
19 requires a proposal guaranty as a condition for bidding on a
20 contract, the guaranty may be in the form of a:

21 (1) cashier's check or money order drawn on an account
22 with a financial entity determined by the agency;

23 (2) bid bond issued by a surety authorized to do
24 business in this state; or

25 (3) any other method approved by the agency.

26 SECTION 5A.04. The Texas Department of Transportation is
27 not required to use the insurance program established under

1 Subchapter F, Chapter 2158, Government Code, as added by this Act,
2 as required by Section 223.050, Transportation Code, as added by
3 this Act, until the Texas Building and Procurement Commission has
4 implemented the insurance program.

5 SECTION 5A.05. The change in law made by this article to
6 Section 2166.258, Government Code, applies only to a contract for a
7 construction project that is made on or after the effective date of
8 this article. A contract that is made before the effective date of
9 this article is governed by the law in effect at the time the
10 contract is made, and that law is continued in effect for that
11 purpose.

12 SECTION 5A.06. A state agency is not required to use the
13 insurance program established under Subchapter F, Chapter 2158,
14 Government Code, as added by this Act, until the Texas Building and
15 Procurement Commission has implemented the program.

16 ARTICLE 5B. COMMISSION ON PRIVATE INITIATIVE

17 SECTION 5B.01. Chapter 495, Government Code, is amended to
18 read as follows:

19 CHAPTER 495. CONTRACTS FOR CORRECTIONAL FACILITIES AND SERVICES

20 SUBCHAPTER A. GENERAL PROVISIONS

21 Sec. 495.001. In this chapter, "commission" means the
22 Commission on Private Initiative.

23 [Sections 495.002-495.010 reserved for expansion]

24 SUBCHAPTER B. COMMISSION ON PRIVATE INITIATIVE

25 Sec. 495.011. COMMISSION. The commission shall administer
26 the state's participation in a program using contracts with vendors
27 for the provision of correctional facilities and services.

1 Sec. 495.012. EXECUTIVE DIRECTOR. The commission shall
2 employ an executive director to administer the day-to-day
3 operations of the commission and perform duties imposed by this
4 chapter and other law.

5 Sec. 495.013. RULEMAKING AUTHORITY. The commission may
6 adopt rules as necessary to administer this chapter.

7 Sec. 495.014. GENERAL POWERS AND DUTIES. The commission is
8 responsible for:

9 (1) the submission of requests for proposals for
10 contracts under Subchapter C and Chapter 507;

11 (2) the negotiation of those contracts;

12 (3) with the assistance of the department, the
13 oversight and monitoring of vendors participating in those
14 contracts; and

15 (4) other duties assigned under this subtitle and
16 other law.

17 Sec. 495.015. AUDITING AND MONITORING CONTRACTS. (a) The
18 commission shall develop a comprehensive methodology for enhanced
19 auditing and monitoring of all facilities operated under contract
20 that house inmates and defendants of the department and releasees
21 under the supervision of the department.

22 (b) The commission shall ensure that all new and renewed
23 contracts described by Subsection (a) include:

24 (1) a provision that the commission or the department
25 may conduct periodic contract compliance reviews, without advance
26 notice, to monitor vendor performance;

27 (2) minimum acceptable standards of performance

1 prescribed by the commission that include provisions regarding the
2 health, safety, and welfare of inmates, defendants, and releasees;

3 (3) a provision that if a review determines that a
4 vendor is not in compliance with the contract, the commission may
5 require that the vendor's per diem compensation be withheld until
6 the vendor meets contract requirements or the vendor is replaced;

7 (4) a provision requiring a vendor not in compliance
8 with the contract to implement a plan of corrective action approved
9 by the commission; and

10 (5) a provision under which the state is indemnified
11 for costs of litigation and for any damages in lawsuits alleging
12 that the health, safety, or welfare of an inmate, defendant, or
13 releasee in a contract facility is not protected.

14 (c) The commission shall develop an appeals process,
15 incorporated by reference into all new and renewed contracts, under
16 which a vendor may appeal any imposed sanction under the contract,
17 with the appeals process including the right to a formal hearing and
18 a right to a final determination by the board.

19 Sec. 495.016. PER DIEM RATE. (a) The commission shall
20 establish a daily "price to beat" per diem rate for each facility
21 operated by the department or operated under a contract with the
22 department.

23 (b) The rate established under Subsection (a) must be based
24 on a level and quality of programs at least equal to those provided
25 by state-operated facilities that house similar types of inmates
26 and at a rate that provides the state with a savings of not less than
27 five percent.

1 (c) The following entities shall assist the commission in
2 establishing the per diem rate:

- 3 (1) the department;
4 (2) the comptroller;
5 (3) the state auditor;
6 (4) the Governor's Office of Budget and Planning; and
7 (5) the Legislative Budget Board.

8 Sec. 495.017. BIENNIAL REPORT. (a) Not later than January 1
9 of each odd-numbered year, the commission shall present a report to
10 the governor, lieutenant governor, and speaker of the house of
11 representatives. The report must state:

12 (1) whether the commission believes the number of beds
13 or the percentage of beds provided to the department under contract
14 should be decreased, remain the same, or be increased; and

15 (2) if the commission believes the number of beds or
16 the percentage of beds provided to the department under contract
17 should be increased:

18 (A) a list of facilities operated by the
19 department that instead should be operated under contract; and

20 (B) the projected savings to the department if
21 the beds become beds operated under contract.

22 (b) In addition to the information required by Subsection
23 (a), the report must contain a qualitative and quantitative
24 analysis of the performance of vendors operating facilities under
25 this subtitle. The analysis must provide information on the
26 operations of each vendor, including information about treatment
27 programs implemented, numbers of escapes, major disciplinary

1 events, and other matters determined to be important by the
2 commission.

3 [Sections 495.018-495.040 reserved for expansion]

4 SUBCHAPTER C ~~[A]~~. CONTRACTS WITH PRIVATE VENDORS AND
5 COMMISSIONERS COURTS FOR INSTITUTIONAL DIVISION FACILITIES

6 Sec. 495.041 ~~[495.001]~~. AUTHORITY TO CONTRACT. (a) The
7 commission ~~[board]~~ may contract with a private vendor or with the
8 commissioners court of a county for the financing, construction,
9 operation, maintenance, or management of a secure correctional
10 facility.

11 (b) A facility operated, maintained, and managed under this
12 subchapter by a private vendor or county must:

13 (1) ~~[hold not more than an average daily population of~~
14 ~~1,000 inmates;~~

15 ~~[(2)]~~ comply with federal constitutional standards
16 and applicable court orders; and

17 (2) ~~[(3)]~~ receive and retain, as an individual
18 facility, accreditation from the American Correctional
19 Association.

20 (c) A facility authorized by this subchapter may be located
21 on private land or on land owned by the state or a political
22 subdivision of the state. The board may accept land donated for
23 that purpose.

24 (d) ~~[The population requirements imposed by Subsection~~
25 ~~(b)(1) do not apply to a facility that is under construction or~~
26 ~~completed before April 14, 1987.~~

27 ~~[(e)]~~ The commission ~~[board]~~ shall give priority to

1 entering contracts under this subchapter that will provide the
2 institutional division with secure regionally based correctional
3 facilities designed to successfully reintegrate inmates into
4 society through preparole, prerelease, work release, and prison
5 industries programs.

6 ~~[(f) Notwithstanding Subsection (b)(1), a facility that~~
7 ~~before December 1, 1991, was operated, maintained, and managed~~
8 ~~under this subchapter by a private vendor or county may not hold~~
9 ~~more than an average daily population of 500 inmates, unless the~~
10 ~~commissioners court of the county in which the facility is located~~
11 ~~expresses in a resolution on the subject that the limit on~~
12 ~~population imposed by this subsection should not apply to the~~
13 ~~facility.]~~

14 Sec. 495.042 ~~[495.002]~~. INMATES. The institutional
15 division may confine only minimum or medium security inmates in a
16 facility authorized by this subchapter. An inmate confined in a
17 facility authorized by this subchapter remains in the legal custody
18 of the institutional division.

19 Sec. 495.043 ~~[495.003]~~. CONTRACT PROPOSALS; QUALIFICATIONS
20 AND STANDARDS. (a) The commission ~~[board]~~ may not award a contract
21 under this subchapter unless the commission ~~[board]~~ requests
22 proposals and receives a proposal that meets or exceeds, in
23 addition to requirements specified in the request for proposals,
24 the requirements specified in Subsections (b), (c), and (d).

25 (b) A person proposing to enter a contract with the
26 commission ~~[board]~~ under this subchapter must demonstrate:

27 (1) the qualifications and the operations and

1 management experience to carry out the terms of the contract; and

2 (2) the ability to comply with the standards of the
3 American Correctional Association and with specific court orders.

4 (c) In addition to meeting the requirements specified in the
5 requests for proposals, a proposal must:

6 (1) provide for regular, on-site monitoring by the
7 commission [~~institutional division~~];

8 (2) acknowledge that payment by the state is subject
9 to the availability of appropriations;

10 (3) provide for payment of a maximum amount per
11 biennium;

12 (4) [~~offer a level and quality of programs at least~~
13 ~~equal to those provided by state-operated facilities that house~~
14 ~~similar types of inmates and at a cost that provides the state with~~
15 ~~a savings of not less than 10 percent of the cost of housing inmates~~
16 ~~in similar facilities and providing similar programs to those types~~
17 ~~of inmates in state-operated facilities,~~

18 [~~(5)~~] permit the state to terminate the contract for
19 cause, including as cause the failure of the private vendor or
20 county to meet the conditions required by this subchapter and other
21 conditions required by the contract;

22 (5) [~~(6)~~] provide that cost adjustments may be made
23 only once each fiscal year, to take effect at the beginning of the
24 next fiscal year;

25 (6) [~~(7)~~] ~~have an initial contract term of not more~~
26 ~~than three years, with an option to renew for additional periods of~~
27 ~~two years,~~

1 ~~[(8)]~~ if the proposal includes construction of a
2 facility, contain a performance bond approved by the commission
3 ~~[board]~~ that is adequate and appropriate for the proposed contract;

4 (7) ~~[(9)]~~ provide for assumption of liability by the
5 private vendor or county for all claims arising from the services
6 performed under the contract by the private vendor or county;

7 (8) ~~[(10)]~~ provide for an adequate plan of insurance
8 for the private vendor or county and its officers, guards,
9 employees, and agents against all claims, including claims based on
10 violations of civil rights arising from the services performed
11 under the contract by the private vendor or county;

12 (9) ~~[(11)]~~ provide for an adequate plan of insurance
13 to protect the state against all claims arising from the services
14 performed under the contract by the private vendor or county and to
15 protect the state from actions by a third party against the private
16 vendor or county, its officers, guards, employees, and agents as a
17 result of the contract;

18 (10) ~~[(12)]~~ provide plans for the purchase and
19 assumption of operations by the state in the event of the bankruptcy
20 of the private vendor or inability of the county to perform its
21 duties under the contract; and

22 (11) ~~[(13)]~~ contain comprehensive standards for
23 conditions of confinement.

24 (d) Before the commissioners court of a county proposes to
25 enter into a contract under this subchapter, the commissioners
26 court of the county must receive the written approval of the sheriff
27 of the county. A sheriff may not unreasonably withhold written

1 approval under this subsection. A correctional facility provided by
2 a county under this subchapter is subject to the same standards and
3 requirements as a correctional facility provided by a private
4 vendor.

5 (e) The commission, if appropriate, shall request proposals
6 for a contract providing residential infant care and parenting
7 programs for mothers who are confined by the department. To the
8 extent practicable, a proposal must offer a program substantially
9 similar to the residential infant care and parenting program
10 operated by the Texas Youth Commission [~~Legislative Budget Board~~
11 ~~determines the costs and cost savings under Subsection (c)(4) and~~
12 ~~may consider any relevant factor, including additional costs to the~~
13 ~~state for providing the same service as a private vendor or county,~~
14 ~~indirect costs properly allocable to either the state or the~~
15 ~~private vendor or county, and continuing costs to the state~~
16 ~~directly associated with the contract)].~~

17 Sec. 495.044 [~~495.004~~]. LIMITATION ON AUTHORITY OVER
18 INMATES. A private vendor or county operating under a contract
19 authorized by this subchapter may not:

20 (1) compute inmate release and parole eligibility
21 dates;

22 (2) award good conduct time;

23 (3) approve an inmate for work, medical, or temporary
24 furlough or for preparole transfer; or

25 (4) classify an inmate or place an inmate in less
26 restrictive custody than the custody ordered by the institutional
27 division.

1 Sec. 495.045 [~~495.005~~]. CIVIL LIABILITY. A private vendor
2 operating under a contract authorized by this subchapter may not
3 claim sovereign immunity in a suit arising from the services
4 performed under the contract by the private vendor or county. This
5 section does not deprive the private vendor or the state of the
6 benefit of any law limiting exposure to liability, setting a limit
7 on damages, or establishing a defense to liability.

8 Sec. 495.046. DWI BEDS. The commission shall enter into
9 contracts under this subchapter that provide the department with
10 not fewer than 1,000 beds for inmates serving sentences for
11 offenses under Chapter 49, Penal Code.

12 [Sections 495.047-495.060 reserved for expansion]

13 ~~[Sec. 495.006. CONVERSION OF FACILITY. The board may not~~
14 ~~convert a facility into a correctional facility operated by a~~
15 ~~private vendor or by a county if, before April 14, 1987, the~~
16 ~~facility is:~~

17 ~~[(1) operated as a correctional facility by the board,~~
18 ~~or~~

19 ~~[(2) being constructed by the board for use as a~~
20 ~~correctional facility.~~

21 ~~[Sec. 495.007. LIMITATION. The board may not enter into~~
22 ~~contracts under this subchapter for more than 4,580 beds.~~

23 ~~[Sec. 495.008. AUDITING AND MONITORING CONTRACTS. (a) The~~
24 ~~department shall develop a comprehensive methodology for enhanced~~
25 ~~auditing and monitoring of all facilities operated under contract~~
26 ~~with the department that house inmates of the department and~~
27 ~~releasees under the supervision of the department. To achieve this~~

1 ~~objective, the department shall first review existing auditing,~~
2 ~~monitoring, and oversight capabilities of the department to~~
3 ~~determine what further procedures and resources are necessary to~~
4 ~~achieve this goal.~~

5 ~~[(b) The department shall ensure that all new and renewed~~
6 ~~contracts described by Subsection (a) include:~~

7 ~~[(1) a provision that the department or a designee of~~
8 ~~the department may conduct periodic contract compliance reviews,~~
9 ~~without advance notice, to monitor vendor performance;~~

10 ~~[(2) minimum acceptable standards of performance~~
11 ~~prescribed by the department that include provisions regarding the~~
12 ~~health, safety, and welfare of inmates and releasees;~~

13 ~~[(3) a provision that if a review determines that a~~
14 ~~vendor is not in compliance with the contract, the department may~~
15 ~~require that the vendor's per diem compensation be withheld until~~
16 ~~the vendor meets contract requirements or the vendor is replaced;~~

17 ~~[(4) a provision requiring a vendor not in compliance~~
18 ~~with the contract to implement a plan of corrective action approved~~
19 ~~by the department; and~~

20 ~~[(5) a provision under which the state is indemnified~~
21 ~~for costs of litigation and for any damages in lawsuits alleging~~
22 ~~that the health, safety, or welfare of an inmate or releasee in a~~
23 ~~contract facility is not protected.~~

24 ~~[(c) The department shall complete at least one enhanced~~
25 ~~audit for each facility described by Subsection (a), without regard~~
26 ~~to whether the facility is operated by a public or private vendor.~~
27 ~~The enhanced audit must include an enhanced contract compliance~~

1 ~~review of any vendors hired by a community supervision and~~
2 ~~corrections department to operate a facility.~~

3 ~~[(d) The department, in conjunction with an advisory~~
4 ~~committee composed of state officials and private officials from~~
5 ~~within the industry, shall adopt rules to implement the~~
6 ~~requirements of this section.~~

7 ~~[(e) The department shall develop an appeals process,~~
8 ~~incorporated by reference into all new and renewed contracts, under~~
9 ~~which a vendor may appeal any imposed sanction under the contract,~~
10 ~~with the appeals process including the right to a formal hearing and~~
11 ~~a right to a final determination by the board.~~

12 ~~[(f) The department shall submit a report to the governor~~
13 ~~and the Legislative Budget Board not later than January 1, 2003,~~
14 ~~describing its efforts to implement the requirements of this~~
15 ~~section. The report must include a summary of contracts and~~
16 ~~vendors, compliance reviews conducted, incidents of contract~~
17 ~~noncompliance, sanctions imposed, corrective actions taken, and~~
18 ~~current contract status. This subsection expires February 1,~~
19 ~~2003.]~~

20 SUBCHAPTER D [~~B~~]. MISCELLANEOUS CONTRACTS FOR CORRECTIONAL
21 FACILITIES AND SERVICES

22 Sec. 495.061 [~~495.021~~]. LEASE-PURCHASE, INSTALLMENT
23 CONTRACTS. (a) The commission [~~board~~] may contract with the
24 commissioners court of a county to use, lease-purchase, purchase on
25 an installment contract, or acquire in any other manner a secure
26 correctional facility financed and constructed under the authority
27 of the county. The contract must be subject to specific

1 appropriate authority in the General Appropriations Act, and the
2 facility must be managed by the institutional division.

3 (b) A contract under this section is subject to review and
4 approval by the Bond Review Board under the provisions of Chapter
5 1231 without regard to the amount or the duration of the contract.

6 Sec. 495.062 [~~495.022~~]. CONTRACTS WITH FEDERAL GOVERNMENT.

7 (a) The commission [~~board~~] may contract with the federal
8 government for the lease of any military base or other federal
9 facility that is not being used by the federal government.

10 (b) A facility leased under this section may be used by the
11 institutional division for the purpose of housing inmates
12 determined by the division to be minimum security inmates.

13 (c) The commission [~~board~~] may not enter into a contract
14 under this section unless funds have been appropriated specifically
15 for the purpose of making payments on contracts authorized under
16 this section.

17 (d) The commission [~~board~~] shall attempt to enter into
18 contracts authorized by this section that will provide the
19 institutional division with facilities located in the various parts
20 of the state.

21 (e) A facility leased under this section by the commission
22 [~~board~~] must comply with federal constitutional standards and
23 applicable court orders.

24 Sec. 495.063 [~~495.023~~]. CONTRACTS FOR DIAGNOSTIC AND
25 EVALUATION SERVICES. (a) The commission [~~institutional division~~]
26 shall request proposals and may award one contract to a private
27 vendor or community supervision and corrections department to

1 screen and diagnose, either before or after adjudications of guilt,
2 persons who may be transferred to the division. The term of the
3 contract may not be for more than two years. The commission
4 [~~institutional division~~] shall award the contract if the commission
5 [~~division~~] determines that:

6 (1) the person proposing to enter into the contract
7 can provide psychiatric, psychological, or social evaluations of
8 persons who are to be transferred to the division;

9 (2) the services provided will reduce the chances of
10 misdiagnosis of mentally ill and mentally retarded persons who are
11 to be transferred to the division, expedite the diagnostic process,
12 and offer savings to the division;

13 (3) the quality of services offered equals or exceeds
14 the quality of the same services provided by the division; and

15 (4) the state will assume no additional liability by
16 entering into a contract for the services.

17 (b) If the commission [~~institutional division~~] enters into
18 the contract and during or at the end of the contract period
19 determines that the diagnostic services performed under the
20 contract are of a sufficient quality and are cost effective, the
21 commission [~~division~~] shall submit requests for additional
22 proposals for contracts and award one or more contracts in the same
23 manner as provided by Subsection (a).

24 Sec. 495.064 [~~495.024~~]. RELEASE OF OUT-OF-STATE INMATES. A
25 county or a municipality or a private vendor operating a
26 correctional facility under a contract with a county under
27 Subchapter F, Chapter 351, Local Government Code, or a municipality

1 under Subchapter E, Chapter 361, Local Government Code, that enters
2 into a contract with any entity to house in this state inmates
3 convicted of offenses committed against the laws of another state
4 of the United States must require as a condition of the contract
5 that each inmate to be released from custody must be released in the
6 sending state.

7 [Sections 495.065-495.090 reserved for expansion]

8 SUBCHAPTER E. PROVISIONS APPLICABLE TO INSTITUTIONAL DIVISION,
9 PAROLE, AND STATE JAIL FELONY FACILITIES

10 Sec. 495.091. BEDS. On a determination by the commission
11 that an increase in the number or percentage of contract beds is
12 cost-effective, the commission and the board may enter into an
13 interagency contract to increase the number of beds that are
14 provided to the department under contract.

15 Sec. 495.092. ENTERPRISE EFFORTS IN CONTRACT FACILITIES.

16 (a) To the greatest extent possible, entities entering into
17 contracts under this subtitle shall generate revenue through
18 participation in inmate industry and agriculture programs and
19 through the implementation of commissary programs and other
20 appropriate revenue generating programs that foster sound
21 corrections policy or assist in the prevention and solving of
22 crimes, reduction in the flow of contraband, gathering of criminal
23 intelligence data and information, suppression of gang activity,
24 and resolution of complaints made by inmates, defendants,
25 department employees, and employees of the entities entering into
26 the contracts.

27 (b) In developing revenue-generating strategies, the entity

entering into the contract, to ensure good order and public safety, shall develop written security policies consistent with existing corrections practices in the federal prison system, this state, or other states.

(c) A percentage of the profits generated from programs described by Subsection (a), as negotiated by contract, must be paid to the department, except that 100 percent of commissary program profits must be paid to the department. For purposes of this subsection, deductions from a participant's wages authorized by Section 497.0581 and paid to an entity entering into a contract with the department are considered profits.

Sec. 495.093. STATE EMPLOYEE IMPACT. In deciding whether to accept a proposal for a contract under this subtitle to provide beds to the department, the commission shall consider the effect that entering into the contract would have on state employees employed in correctional facilities.

SECTION 5B.02. Subchapter C, Chapter 497, Government Code, is amended to read as follows:

SUBCHAPTER C. COMMISSION ON PRIVATE INITIATIVE [~~SECTOR PRISON INDUSTRIES OVERSIGHT AUTHORITY~~]

Sec. 497.051. PURPOSE; DEFINITION. (a) The Commission on Private Initiative [~~Sector Prison Industries Oversight Authority~~] is created to:

(1) approve, certify, and oversee the operation of private sector prison industries programs in the department, the Texas Youth Commission, and in county correctional facilities in compliance with the federal prison enhancement certification

1 program established under 18 U.S.C. Section 1761; and

2 (2) as required by Chapter 495, administer the state's
3 participation in a program using contracts with vendors for the
4 provision of correctional facilities and services. ~~[The executive~~
5 ~~director shall provide the authority with clerical and technical~~
6 ~~support as necessary for the authority to perform duties imposed on~~
7 ~~the authority by this subchapter and shall ensure that the~~
8 ~~department implements the policies adopted by the authority that~~
9 ~~relate to the operation of private sector prison industries~~
10 ~~programs.]~~

11 (b) In this subchapter:

12 (1) "Commission" ~~["Authority"]~~ means the Commission
13 on Private Initiative ~~[Sector Prison Industries Oversight~~
14 ~~Authority]~~.

15 (2) "Participant" means a participant in a private
16 sector prison industries program.

17 Sec. 497.052. MEMBERSHIP. (a) The commission ~~[authority]~~
18 is composed of nine members appointed by the governor:

19 (1) one of whom is representative of organized labor;

20 (2) ~~[one of whom is representative of employers,~~

21 ~~[(3)]~~ one of whom is representative of groups
22 advocating the rights of victims of criminal offenses;

23 (3) ~~[(4)]~~ one of whom is representative of groups
24 advocating the rights of inmates[+]

25 ~~[(5) one of whom is experienced in the field of~~
26 ~~vocational rehabilitation]~~; and

27 (4) six ~~[(6) four]~~ of whom are public members.

(b) The following individuals shall serve as ex officio members of the commission ~~[authority]~~:

(1) a member of the house of representatives designated by the speaker of the house;

(2) a member of the senate designated by the lieutenant governor;

(3) the chairman ~~[executive director]~~ of the Texas Board ~~[Department]~~ of Criminal Justice ~~[or the designee of the executive director]~~;

(4) the executive director of the Texas Workforce Commission or the designee of the executive director; ~~[and]~~

(5) the state auditor; and

(6) the director of the Governor's Office of Budget and Planning ~~[the executive director of the Texas Youth Commission or the designee of the executive director]~~.

(c) The governor shall appoint as an employer liaison to the commission ~~[authority]~~ one person who is an employer in the private sector prison industries program that is certified as in compliance with the federal prison enhancement certification program established under 18 U.S.C. Section 1761. The employer liaison is entitled to attend meetings of the commission ~~[authority]~~ and offer advice to the commission ~~[authority]~~ from the perspective of a prison industries employer. The employer liaison serves at the pleasure of the governor, is not entitled to vote on any issue considered by the commission ~~[authority]~~, and is entitled to reimbursement for travel expenses in the same manner as is a member of the commission ~~[authority]~~ under Section 497.055.

1 (d) A person may not be a public member of the commission
2 [~~authority~~] if the person or the person's spouse:

3 (1) is employed by or participates in the management
4 of a business entity or other organization regulated by or
5 receiving money from the commission [~~authority~~];

6 (2) owns or controls, directly or indirectly, more
7 than a 10 percent interest in a business entity or other
8 organization regulated by or receiving money from the commission
9 [~~authority~~]; or

10 (3) uses or receives a substantial amount of tangible
11 goods, services, or money from the commission [~~authority~~] other
12 than compensation or reimbursement authorized by law for commission
13 [~~authority~~] membership, attendance, or expenses.

14 (e) Appointments to the commission [~~authority~~] shall be
15 made without regard to the race, color, disability, sex, religion,
16 age, or national origin of the appointees.

17 Sec. 497.0521. CONFLICTS OF INTEREST. (a) In this
18 section, "Texas trade association" means a cooperative and
19 voluntarily joined association of business or professional
20 competitors in this state designed to assist its members and its
21 industry or profession in dealing with mutual business or
22 professional problems and in promoting their common interest.

23 (b) A person may not be a member of the commission
24 [~~authority~~] and may not be a commission [~~an authority~~] employee
25 employed in a "bona fide executive, administrative, or professional
26 capacity," as that phrase is used for purposes of establishing an
27 exemption to the overtime provisions of the federal Fair Labor

Standards Act of 1938 (29 U.S.C. Section 201 et seq.) and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of private sector prison industries; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of private sector prison industries.

(c) A person may not be a member of the commission ~~[authority]~~ or act as the general counsel to the commission ~~[authority]~~ if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission ~~[authority]~~.

Sec. 497.0522. REMOVAL PROVISIONS. (a) It is a ground for removal from the commission ~~[authority]~~ that a member:

(1) does not have at the time of taking office the qualifications required by Section 497.052(a);

(2) does not maintain during service on the commission ~~[authority]~~ the qualifications required by Section 497.052(a);

(3) is ineligible for membership under Section 497.052(d) or 497.0521(b) or (c);

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

(5) is absent from more than half of the regularly scheduled commission ~~[authority]~~ meetings that the member is

1 eligible to attend during a calendar year without an excuse
2 approved by a majority vote of the commission [~~authority~~].

3 (b) The validity of an action of the commission [~~authority~~]
4 is not affected by the fact that it is taken when a ground for
5 removal of a commission [~~an authority~~] member exists.

6 (c) If the executive director has knowledge that a potential
7 ground for removal exists, the executive director shall notify the
8 presiding officer of the commission [~~authority~~] of the potential
9 ground. The presiding officer shall then notify the governor and
10 the attorney general that a potential ground for removal exists. If
11 the potential ground for removal involves the presiding officer,
12 the executive director shall notify the next highest ranking
13 officer of the commission [~~authority~~], who shall then notify the
14 governor and the attorney general that a potential ground for
15 removal exists.

16 Sec. 497.0523. INFORMATION: REQUIREMENTS FOR OFFICE OR
17 EMPLOYMENT. The executive director or the executive director's
18 designee shall provide to members of the commission [~~authority~~] and
19 to agency employees, as often as necessary, information regarding
20 the requirements for office or employment under this subchapter,
21 including information regarding a person's responsibilities under
22 applicable laws relating to standards of conduct for state officers
23 or employees.

24 Sec. 497.0524. TRAINING PROGRAM. (a) A person who is
25 appointed to and qualifies for office as a member of the commission
26 [~~authority~~] may not vote, deliberate, or be counted as a member in
27 attendance at a meeting of the commission [~~authority~~] until the

1 person completes a training program that complies with this
2 section.

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

5 (1) the legislation that created the commission
6 ~~[authority]~~;

7 (2) the programs operated by the commission
8 ~~[authority]~~;

9 (3) the role and functions of the commission
10 ~~[authority]~~;

11 (4) the rules of the commission ~~[authority]~~;

12 (5) the current budget for the commission ~~[authority]~~;

13 (6) the results of the most recent formal audit of the
14 commission ~~[authority]~~;

15 (7) the requirements of:

16 (A) the open meetings law, Chapter 551;

17 (B) the public information law, Chapter 552;

18 (C) the administrative procedure law, Chapter
19 2001; and

20 (D) other laws relating to public officials,
21 including conflict of interest laws; and

22 (8) any applicable ethics policies adopted by the
23 department or the Texas Ethics Commission.

24 (c) A person appointed to the commission ~~[authority]~~ is
25 entitled to reimbursement, as provided by the General
26 Appropriations Act, for the travel expenses incurred in attending
27 the training program regardless of whether the attendance at the

1 program occurs before or after the person qualifies for office.

2 Sec. 497.0525. POLICYMAKING AND MANAGEMENT
3 RESPONSIBILITIES. The commission [~~authority~~] shall develop and
4 implement policies that clearly separate the policymaking
5 responsibilities of the commission [~~authority~~] and the management
6 responsibilities of the staff of the commission [~~authority~~].

7 Sec. 497.0526. PUBLIC ACCESS. The commission [~~authority~~]
8 shall develop and implement policies that provide the public with a
9 reasonable opportunity to appear before the commission [~~authority~~]
10 and to speak on any issue under the jurisdiction of the commission
11 [~~authority~~].

12 Sec. 497.0527. COMPLAINTS. (a) The commission
13 [~~authority~~] shall maintain a file on each written complaint filed
14 with the commission [~~authority~~]. The file must include:

- 15 (1) the name of the person who filed the complaint;
16 (2) the date the complaint is received by the
17 commission [~~authority~~];
18 (3) the subject matter of the complaint;
19 (4) the name of each person contacted in relation to
20 the complaint;
21 (5) a summary of the results of the review or
22 investigation of the complaint; and
23 (6) an explanation of the reason the file was closed,
24 if the commission [~~authority~~] closed the file without taking action
25 other than to investigate the complaint.

26 (b) The commission [~~authority~~] shall provide to the person
27 filing the complaint and to each person who is a subject of the

1 complaint a copy of the commission's [~~authority's~~] policies and
2 procedures relating to complaint investigation and resolution.

3 (c) The commission [~~authority~~], at least quarterly until
4 final disposition of the complaint, shall notify the person filing
5 the complaint and each person who is a subject of the complaint of
6 the status of the investigation unless the notice would jeopardize
7 an undercover investigation.

8 Sec. 497.053. TERMS. Appointed members of the commission
9 [~~authority~~] serve staggered six-year terms, with three members'
10 terms expiring on February 1 of each odd-numbered year.

11 Sec. 497.054. PRESIDING OFFICER. The governor shall
12 designate the presiding officer from among the members of the
13 commission [~~authority~~], and the presiding officer shall serve in
14 that capacity at the pleasure of the governor.

15 Sec. 497.055. REIMBURSEMENT. A member of the commission
16 [~~authority~~] is not entitled to compensation but is entitled to
17 reimbursement of the travel expenses incurred by the member while
18 conducting the business of the commission [~~authority~~] as provided
19 in the General Appropriations Act.

20 Sec. 497.056. PRIVATE SECTOR PRISON INDUSTRY [~~INDUSTRIES~~]
21 EXPANSION ACCOUNT. (a) The department shall forward money
22 collected under Section 497.0581 to the comptroller. The
23 comptroller shall deposit the money in the general revenue fund.

24 (b) To construct more facilities and increase the number of
25 participants, the private sector prison industry expansion account
26 is created as an account in the general revenue fund. Money in the
27 account may be appropriated only to construct work facilities,

1 recruit corporations to participate as private sector industries
2 programs, and pay costs of the commission [~~authority~~] and
3 department in implementing this subchapter, including the cost to
4 the department in reimbursing commission [~~authority~~] members and
5 the employer liaison for expenses.

6 (c) On each certification by the department that an amount
7 has been deposited to the credit of the general revenue fund from
8 deductions from participants' wages under Section 497.0581, the
9 comptroller shall transfer an equivalent amount from the general
10 revenue fund to the private sector prison industry expansion
11 account, until the balance in the account is \$2 million. On a
12 certification occurring when the balance in the account is more
13 than \$2 million, the comptroller shall transfer to the account an
14 amount equal to one-half of the amount deposited to the credit of
15 the general revenue fund from deductions from participants' wages.

16 (d) The department during each calendar quarter shall make a
17 certification of the amount deposited during the previous calendar
18 quarter to the credit of the general revenue fund from deductions
19 from participants' wages under Section 497.0581.

20 Sec. 497.057. RULES. The commission [~~authority~~] shall
21 adopt rules as necessary to ensure that the private sector prison
22 industries program authorized by this subchapter is in compliance
23 with the federal prison enhancement certification program
24 established under 18 U.S.C. Section 1761.

25 Sec. 497.058. PREVAILING WAGE. (a) The commission
26 [~~authority~~] by rule shall require that participants at each private
27 sector prison industries program be paid not less than the

1 prevailing wage as computed by the commission [~~authority~~], except
2 that the commission [~~authority~~] may permit employers to pay a
3 participant the minimum wage for the two-month period beginning on
4 the date participation begins.

5 (b) For the purposes of computations required by this
6 section:

7 (1) the prevailing wage is the wage paid by the
8 employer for work of a similar nature in the location in which the
9 work is performed;

10 (2) in the event that the employer has no employees
11 other than those employed under this subchapter performing work of
12 a similar nature within the location, the prevailing wage for work
13 of a similar nature is determined by reference to openings and wages
14 by occupation data collected by the labor market information
15 department of the Texas Workforce Commission; and

16 (3) the location in which work is performed is the
17 local workforce development area in which the work is performed.

18 Sec. 497.0581. PARTICIPANT CONTRIBUTIONS; ASSISTANCE
19 ACCOUNT. (a) The commission [~~authority~~] by rule shall determine
20 the amount of deductions to be taken from wages received by the
21 participant under this subchapter. In determining the amount of
22 deductions under this section, the commission [~~authority~~] shall
23 ensure that the deductions do not place the private sector prison
24 industries programs in the department in noncompliance with the
25 federal prison enhancement certification program established under
26 18 U.S.C. Section 1761.

27 (b) The private sector prison industry crime victims

1 assistance account is created as an account in the general revenue
2 fund. Money in the account may be appropriated only to the
3 commission [~~authority~~] for the purpose of aiding victims of crime,
4 under rules adopted by the commission [~~authority~~].

5 Sec. 497.059. LIMITING IMPACT ON NON-PRISON
6 INDUSTRY. (a) The commission [~~authority~~] may not grant initial
7 certification to a private sector prison industries program if the
8 commission [~~authority~~] determines that the operation of the program
9 would result in the loss of existing jobs provided by the employer
10 in this state.

11 (b) The commission [~~authority~~] shall adopt rules to
12 determine whether a program would cause the loss of existing jobs
13 provided by the employer in this state.

14 Sec. 497.060. WORKERS' COMPENSATION. The commission
15 [~~authority~~] by rule shall require private sector prison industries
16 program employers to meet or exceed all federal requirements for
17 providing compensation to participants injured while working.

18 Sec. 497.061. RECIDIVISM STUDIES. The commission
19 [~~authority~~], with the cooperation of the Criminal Justice Policy
20 Council, shall gather data to determine whether participation in a
21 private sector prison industries program is a factor that reduces
22 recidivism among participants.

23 Sec. 497.062. LIMITATION ON NUMBER OF PARTICIPANTS;
24 GOALS. (a) The commission [~~authority~~] may certify any number of
25 private sector prison industries programs that meet or exceed the
26 requirements of federal law and the rules of the commission
27 [~~authority~~], but in no event may the commission [~~authority~~] permit

1 more than 2,000 participants in the program at any one time.

2 (b) The commission [~~authority~~] shall establish as a goal
3 that the program have at least 1,800 participants by January 1,
4 2006.

5 SECTION 5B.03. Section 507.001(a), Government Code, is
6 amended to read as follows:

7 (a) The state jail division may operate, maintain, and
8 manage state jail felony facilities to confine inmates described by
9 Section 507.002, and the department may finance and construct those
10 facilities. The Commission on Private Initiative [~~state jail~~
11 ~~division, with the approval of the board,~~] may contract with the
12 institutional division, a private vendor, a community supervision
13 and corrections department, or the commissioners court of a county
14 for the construction, operation, maintenance, or management of a
15 state jail felony facility. The community justice assistance
16 division shall assist the commission [~~state jail division~~] to
17 contract with a community supervision and corrections department
18 for the construction, operation, maintenance, or management of a
19 state jail felony facility. The Commission on Private Initiative
20 [~~state jail division~~] shall consult with the community justice
21 assistance division before contracting with a community
22 supervision and corrections department under this section. A
23 community supervision and corrections department or the
24 commissioners court of a county that contracts under this section
25 may subcontract with a private vendor for the provision of any or
26 all services described by this subsection. A community supervision
27 and corrections department that contracts under this section may

1 subcontract with the commissioners court of a county for the
2 provision of any or all services described by this subsection. The
3 Commission on Private Initiative [~~board~~] may contract with a
4 private vendor or the commissioners court of a county for the
5 financing or construction of a state jail felony facility.

6 SECTION 5B.04. The governor, in making appointments to the
7 Commission on Private Initiative as required by Section 497.052,
8 Government Code, as amended by this article, shall appoint public
9 members to the positions held by the employer representative and
10 the vocational rehabilitation representative as soon as the terms
11 for those positions expire or as those positions become vacant. The
12 changes in law made by this article to Section 497.052, Government
13 Code, do not affect the entitlement of a person who, immediately
14 before the effective date of this article, holds the position on the
15 commission as the employer representative or as the vocational
16 rehabilitation representative to serve for the remainder of the
17 term to which the person was appointed.

18 SECTION 5B.05. (a) On September 1, 2003, funds appropriated
19 to the Texas Department of Criminal Justice for the private
20 facilities division are transferred to the Commission on Private
21 Initiative.

22 (b) On September 1, 2003, a reference in law to the Private
23 Sector Prison Industries Oversight Authority means the Commission
24 on Private Initiative.

25 [ARTICLES 5C AND 5D. RESERVED]

26 ARTICLE 5E. GENERAL STATE PROCUREMENT

27 SECTION 5E.01. Section 2171.101(a), Government Code, is

1 amended to read as follows:

2 (a) The office of vehicle fleet management shall establish a
3 vehicle reporting system to assist each state agency in the
4 management of its vehicle fleet. A state agency shall be required
5 to submit the reports on a monthly basis [~~not more often than~~
6 ~~semiannually~~].

7 SECTION 5E.02. Sections 2171.102(a) and (b), Government
8 Code, are amended to read as follows:

9 (a) The office of vehicle fleet management may, for a fee,
10 [~~shall~~] provide routine periodic maintenance service to state
11 agencies located in Travis County. [~~The office shall charge a fee~~
12 ~~for the service.~~]

13 (b) The office may [~~shall~~] negotiate contracts for major
14 overhauls and other extensive mechanical work.

15 SECTION 5E.03. Sections 2171.104(c) and (d), Government
16 Code, are amended to read as follows:

17 (c) The management plan must address:

18 (1) opportunities for consolidating and privatizing
19 the operation and management of vehicle fleets in areas where there
20 is a concentration of state agencies, including the Capitol Complex
21 and the Health and Human Services Complex in Austin;

22 (2) the number and type of vehicles owned by each
23 agency and the purpose each vehicle serves;

24 (3) procedures to increase vehicle use and improve the
25 efficiency of the state vehicle fleet;

26 (4) procedures to reduce the cost of maintaining state
27 vehicles;

1 (5) procedures to handle surplus or salvage [~~the sale~~
2 ~~of excess~~] state vehicles; and

3 (6) lower-cost alternatives to using state-owned
4 vehicles, including:

5 (A) using rental cars; and

6 (B) reimbursing employees for using personal
7 vehicles.

8 (d) The commission shall require a state agency to transfer
9 surplus or salvage vehicles identified by the management plan to
10 the commission and shall sell or dispose of the [~~excess~~] vehicles in
11 accordance with the provisions of Chapter 2175 that provide for
12 disposition of surplus or salvage property by the commission
13 ~~[identified by the management plan and deposit the proceeds from~~
14 ~~the sale into the account that the agency used to purchase the~~
15 ~~vehicles].~~

16 SECTION 5E.04. Section 51.9335(b), Education Code, is
17 amended to read as follows:

18 (b) In determining what is the best value to an institution
19 of higher education, the institution shall consider:

20 (1) the purchase price;

21 (2) the reputation of the vendor and of the vendor's
22 goods or services;

23 (3) the quality of the vendor's goods or services;

24 (4) the extent to which the goods or services meet the
25 institution's needs;

26 (5) the vendor's past relationship with the
27 institution;

1 (6) the impact on the ability of the institution to
2 comply with laws and rules relating to historically underutilized
3 businesses and to the procurement of goods and services from
4 persons with disabilities;

5 (7) the total long-term cost to the institution of
6 acquiring the vendor's goods or services; and

7 (8) any other relevant factor that a private business
8 entity would consider in selecting a vendor[; and

9 ~~[(9) the use of material in construction or repair to~~
10 ~~real property that is not proprietary to a single vendor unless the~~
11 ~~institution provides written justification in the request for bids~~
12 ~~for use of the unique material specified].~~

13 SECTION 5E.05. Chapter 2151, Government Code, is amended by
14 adding Section 2151.005 to read as follows:

15 Sec. 2151.005. EXEMPTIONS RELATED TO LEGAL SERVICES. This
16 subtitle does not apply to:

17 (1) obtaining outside legal counsel services;
18 (2) obtaining expert witnesses; or
19 (3) procuring litigation-related goods and services
20 for which competitive procurement is not feasible under the
21 circumstances.

22 SECTION 5E.06. Section 2155.078(k), Government Code, is
23 amended to read as follows:

24 (k) The commission shall require a reasonable number of [24]
25 hours of continuing education ~~[each year]~~ to maintain a
26 certification level. The commission may allow attendance at
27 equivalent certification training recognized by the commission to

1 count toward the required number of ~~[up to 16]~~ hours ~~[of the~~
2 ~~continuing education requirement]~~. Maintenance of the
3 certification level may be by yearly renewal or another reasonable
4 renewal period comparable to nationally recognized certification
5 requirements.

6 SECTION 5E.07. Section 2155.141, Government Code, is
7 amended to read as follows:

8 Sec. 2155.141. ~~[CERTAIN OTHER]~~ PURCHASES FOR AUXILIARY
9 ENTERPRISE NOT WITHIN COMMISSION'S PURCHASING AUTHORITY. The
10 commission's authority does not extend to a purchase of goods and
11 services~~[+~~

12 ~~[(1) for resale,~~

13 ~~[(2)]~~ for an auxiliary enterprise~~[, or~~

14 ~~[(3) for an organized activity relating to an~~
15 ~~instructional department of an institution of higher learning or a~~
16 ~~similar activity of another state agency]~~.

17 SECTION 5E.08. Subchapter C, Chapter 2155, Government Code,
18 is amended by adding Section 2155.148 to read as follows:

19 Sec. 2155.148. CERTAIN PURCHASES FOR TEXAS STATEWIDE
20 EMERGENCY SERVICES PERSONNEL RETIREMENT FUND. (a) The fire
21 fighters' pension commissioner is delegated all purchasing
22 functions relating to the purchase of goods or services from funds
23 other than general revenue funds for a purpose the state board of
24 trustees of the Texas statewide emergency services personnel
25 retirement fund determines relates to the fiduciary duties of the
26 retirement fund.

27 (b) The fire fighters' pension commissioner shall acquire

1 goods or services by any procurement method approved by the state
2 board of trustees of the Texas statewide emergency services
3 personnel retirement fund that provides the best value to the
4 retirement fund. The fire fighters' pension commissioner shall
5 consider the best value standards provided by Section 2155.074.

6 (c) The commission shall procure goods or services for the
7 fire fighters' pension commissioner at the request of the pension
8 commissioner, and the pension commissioner may use the services of
9 the commission in procuring goods or services.

10 SECTION 5E.09. Subchapter I, Chapter 2155, Government Code,
11 is amended by adding Section 2155.510 to read as follows:

12 Sec. 2155.510. REBATES. The commission may collect a
13 rebate from a vendor under a contract listed on a schedule developed
14 under this subchapter.

15 SECTION 5E.10. The heading to Subchapter B, Chapter 2157,
16 Government Code, is amended to read as follows:

17 SUBCHAPTER B. CATALOG [~~CATALOGUE~~] PURCHASE METHOD

18 SECTION 5E.11. Section 2157.061, Government Code, is
19 amended to read as follows:

20 Sec. 2157.061. USE OF CATALOG [~~CATALOGUE~~] PURCHASE METHOD
21 REQUIRED UNLESS BEST VALUE AVAILABLE ELSEWHERE. The commission or
22 a state agency shall purchase an automated information system
23 through the catalog [~~catalogue~~] procedure provided by this
24 subchapter unless the commission or state agency determines that
25 the best value may be obtained from another purchase method
26 authorized by this subtitle.

27 SECTION 5E.12. Section 2157.0611, Government Code, is

amended to read as follows:

Sec. 2157.0611. REQUIREMENT TO EVALUATE THREE OFFERS ~~[PROPOSALS]~~ WHEN POSSIBLE. A catalog ~~[catalogue]~~ purchase or lease that exceeds \$2,000 or a greater amount prescribed by commission rule shall, when possible, be based on an evaluation of at least three catalog offers ~~[catalogue proposals]~~ made to the commission or other state agency by catalog ~~[qualified]~~ information systems vendors. If at least three catalog offers ~~[catalogue proposals]~~ are not evaluated by the commission or other state agency before a purchase or lease that exceeds the threshold amount is made, the commission or other agency shall document the reasons for that fact before making the purchase or lease under Section 2157.063.

SECTION 5E.13. Section 2157.062, Government Code, is amended to read as follows:

Sec. 2157.062. BASIC REQUIREMENTS FOR CATALOG ~~[APPLICATION PROCESS FOR QUALIFICATION AS]~~ VENDOR. ~~[(a) To sell or lease an automated information system under this subchapter to a state agency, a vendor must apply to the commission for designation as a qualified information systems vendor. The commission shall prescribe the application process. The commission may allow or require a vendor to apply on-line.]~~

~~[(b)]~~ At a minimum, a catalog information systems vendor must ~~[the commission shall require an applicant to submit]~~:

(1) maintain an Internet catalog ~~[a catalogue]~~ containing each product and service eligible for purchase by a state agency, including for each product or service:

(A) a description;

(B) the list price; and

(C) the price to a state agency;

(2) maintain a maintenance, repair, and support plan for each eligible product or service;

(3) provide on request proof of the applicant's financial resources and ability to perform; and

(4) provide a guarantee that the vendor will make available equivalent replacement parts for a product sold to the state until at least the third anniversary of the date the product is discontinued.

SECTION 5E.14. Section 2157.063(a), Government Code, is amended to read as follows:

(a) If a purchase or lease is the best value available and is in the state's best interest, a state agency may under this subchapter purchase or lease an automated information system directly from a catalog ~~[qualified]~~ information systems vendor and may negotiate price and additional terms and conditions to be included in a contract relating to the purchase or lease.

SECTION 5E.15. Section 2157.066, Government Code, is amended by amending Subsections (a), (b), and (f) and adding Subsection (g) to read as follows:

(a) A catalog ~~[vendor designated by the commission as a qualified]~~ information systems vendor shall publish and maintain a catalog ~~[catalogue]~~ described by Section 2157.062(1) ~~[2157.062(b)(1)]~~ in the manner required by the commission.

(b) The vendor shall revise the catalog ~~[catalogue]~~ as necessary in the manner required by the commission.

1 (f) The commission may audit a catalog [~~qualified~~]
2 information systems vendor's catalog [~~approved catalogue~~] for
3 compliance with rules adopted under Subsection (g) [~~(c)~~].

4 (g) The commission shall adopt rules that specify the
5 requirements for a catalog information systems vendor's
6 maintenance of Internet catalogs, including:

7 (1) availability;

8 (2) format; and

9 (3) other relevant requirements.

10 SECTION 5E.16. Section 2157.067(a), Government Code, is
11 amended to read as follows:

12 (a) The commission shall make the catalog [~~catalogue~~]
13 purchasing procedure available to a local government that qualifies
14 for cooperative purchasing under Sections 271.082 and 271.083,
15 Local Government Code.

16 SECTION 5E.17. Section 2157.068(b), Government Code, is
17 amended to read as follows:

18 (b) The department shall negotiate with catalog [~~qualified~~]
19 information systems vendors to attempt to obtain a favorable price
20 for all of state government on licenses for commodity software
21 items, based on the aggregate volume of purchases expected to be
22 made by the state. The terms and conditions of a license agreement
23 between a vendor and the department under this section may not be
24 less favorable to the state than the terms of similar license
25 agreements between the vendor and retail distributors.

26 SECTION 5E.18. Chapter 2254, Government Code, is amended by
27 adding Subchapter D to read as follows:

1 SUBCHAPTER D. OUTSIDE LEGAL SERVICES

2 Sec. 2254.151. DEFINITION. In this subchapter, "state
3 agency" means a department, commission, board, authority, office,
4 or other agency in the executive branch of state government created
5 by the state constitution or a state statute.

6 Sec. 2254.152. APPLICABILITY. This subchapter does not
7 apply to a contingent fee contract for legal services.

8 Sec. 2254.153. CONTRACTS FOR LEGAL SERVICES AUTHORIZED.
9 Subject to Section 402.0212, a state agency may contract for
10 outside legal services.

11 Sec. 2254.154. ATTORNEY GENERAL; COMPETITIVE PROCUREMENT.
12 The attorney general may require state agencies to obtain outside
13 legal services through a competitive procurement process, under
14 conditions prescribed by the attorney general.

15 SECTION 5E.19. Section 2262.001, Government Code, is
16 amended by adding Subdivision (1-a) to read as follows:

17 (1-a) "Commission" means the Texas Building and
18 Procurement Commission.

19 SECTION 5E.20. Sections 2262.051(a) and (b), Government
20 Code, are amended to read as follows:

21 (a) In consultation with the attorney general [~~Texas~~
22 ~~Building and Procurement Commission~~], the Department of
23 Information Resources, the comptroller, and the state auditor, the
24 commission [~~attorney general~~] shall develop or [~~and~~] periodically
25 update a contract management guide for use by state agencies.

26 (b) The commission [~~attorney general~~] may adopt rules
27 necessary to develop or update the guide.

SECTION 5E.21. Section 2262.052(b), Government Code, is amended to read as follows:

(b) The state auditor shall:

(1) periodically monitor compliance with this section;

(2) report any noncompliance to:

(A) the governor;

(B) the lieutenant governor;

(C) the speaker of the house of representatives;

and

(D) the team; and

(3) assist, in coordination with the commission ~~[attorney general]~~ and the comptroller, a noncomplying state agency to comply with this section.

SECTION 5E.22. Section 2262.053(a), Government Code, is amended to read as follows:

(a) In coordination with the ~~[Texas Building and Procurement Commission, the]~~ comptroller, ~~[and the]~~ Department of Information Resources, and ~~[the]~~ state auditor, the commission shall develop or administer a training program for contract managers.

SECTION 5E.23. Section 2262.054, Government Code, is amended to read as follows:

Sec. 2262.054. PUBLIC COMMENT. The commission ~~[attorney general]~~ by rule may establish procedures by which each state agency is required to invite public comment by publishing the proposed technical specifications for major contracts on the

1 Internet through the information service known as the Texas
2 Marketplace or through a suitable successor information service.
3 The guide must define "technical specifications."

4 SECTION 5E.24. Section 2262.101, Government Code, is
5 amended to read as follows:

6 Sec. 2262.101. CREATION; DUTIES. The Contract Advisory
7 Team is created to assist state agencies in improving contract
8 management practices by:

9 (1) reviewing the solicitation of major contracts by
10 state agencies;

11 (2) reviewing any findings or recommendations made by
12 the state auditor, including those made under Section 2262.052(b),
13 regarding a state agency's compliance with the contract management
14 guide; and

15 (3) providing recommendations to the commission
16 regarding:

17 (A) [~~the attorney general regarding~~] the
18 development of the contract management guide; and

19 (B) [~~the state auditor regarding~~] the training
20 under Section 2262.053.

21 SECTION 5E.25. Sections 2155.078(n), 2155.142, 2155.144,
22 2155.1441, 2157.001(2), 2157.064, 2157.065, 2157.066(c) and (d),
23 and 2261.001(e), Government Code, are repealed.

24 SECTION 5E.26. The changes in law made by this article to
25 Section 2155.141, Government Code, apply only to a purchase made on
26 or after the effective date of this article. A purchase made before
27 the effective date of this article is covered by the law in effect

1 when the purchase was made, and the former law is continued in
2 effect for that purpose.

3 SECTION 5E.27. (a) In this section, "commission" means the
4 Texas Building and Procurement Commission.

5 (b) Not later than February 1, 2004:

6 (1) the attorney general and state auditor shall
7 complete the transfer of powers and duties to the commission under
8 Chapter 2262, Government Code, as amended by this Act;

9 (2) a rule or form adopted by the attorney general or
10 state auditor under Chapter 2262, Government Code, is a rule or form
11 of the commission and remains in effect until changed by the
12 commission;

13 (3) the commission assumes, without a change in
14 status, the position of the attorney general or state auditor with
15 respect to any matter regarding which the duties of the attorney
16 general or state auditor under Chapter 2262, Government Code, have
17 been transferred to the commission;

18 (4) all property, including records, and rights and
19 obligations of the attorney general and state auditor related to
20 those entities' express duties under Chapter 2262, Government Code,
21 are transferred to the commission; and

22 (5) all funds appropriated by the legislature to the
23 attorney general and state auditor related to those entities'
24 express powers and duties under Chapter 2262, Government Code, are
25 transferred to the commission.

26 SECTION 5E.28. Section 2175.061, Government Code, is
27 amended by adding Subsection (c) to read as follows:

1 (c) The commission may by rule determine the best method of
2 disposal for surplus and salvage property of the state under this
3 chapter.

4 SECTION 5E.29. Section 2175.134(a), Government Code, is
5 amended to read as follows:

6 (a) Proceeds from the sale of surplus or salvage property,
7 less the cost of advertising the sale, the cost of selling the
8 surplus or salvage property, including the cost of auctioneer
9 services, and the amount of the fee collected under Section
10 2175.131, shall be deposited to the credit of the general revenue
11 fund of the state treasury ~~[appropriate appropriation item of the~~
12 ~~state agency for which the sale was made]~~.

13 SECTION 5E.30. Section 2175.182(a), Government Code, is
14 amended to read as follows:

15 (a) The commission is responsible for the disposal of
16 surplus or salvage property under this subchapter. The commission
17 may take physical possession of the property. ~~[A state agency~~
18 ~~maintains ownership of property throughout the disposal process.]~~

19 SECTION 5E.31. Section 2175.185(b), Government Code, is
20 amended to read as follows:

21 (b) On receiving notice under this section, the comptroller
22 shall, if necessary, ~~[+~~

23 ~~[(1) debit and credit the proper appropriations, and~~

24 ~~[(2)]~~ adjust state property accounting records.

25 SECTION 5E.32. Section 2175.191(a), Government Code, is
26 amended to read as follows:

27 (a) Proceeds from the sale of surplus or salvage property,

1 less the cost of advertising the sale, the cost of selling the
2 surplus or salvage property, including the cost of auctioneer
3 services, and the amount of the fee collected under Section
4 2175.188, shall be deposited to the credit of the general revenue
5 fund of the state treasury [~~appropriate appropriation item of the~~
6 ~~state agency for which the sale was made~~].

7 SECTION 5E.33. Section 2175.303, Government Code, is
8 amended to read as follows:

9 Sec. 2175.303. EXCEPTION FOR CERTAIN PROPERTY [~~PRODUCTS~~].
10 This chapter does not apply to disposition of:

11 (1) a product or by-product of research, forestry,
12 agriculture, livestock, or an industrial enterprise; [~~or~~]

13 (2) certain recyclable materials, including paper,
14 cardboard, aluminum cans, plastics, glass, one-use pallets, used
15 tires, used oil, and scrap metal, when the disposition is not in the
16 best interest of the state or economically feasible;

17 (3) property acquired by a state agency with money
18 from the state highway fund; or

19 (4) property given or granted to a state agency.

20 SECTION 5E.34. Section 2175.361, Government Code, is
21 amended to read as follows:

22 Sec. 2175.361. DEFINITIONS. In this subchapter:

23 (1) "Federal act" means the Federal Property and
24 Administrative Services Act of 1949 (40 U.S.C. Section 541 et seq.
25 [484]), as amended, or any other federal law providing for the
26 disposal of federal surplus property.

27 (2) "Federal property" means federal surplus property

1 acquired:

2 (A) by the commission or under the commission's
3 jurisdiction under this subchapter; and

4 (B) under 40 U.S.C. Section 483c, 549, or 550, or
5 under any other federal law providing for the disposal [~~Section~~
6 ~~484(j) or (k)~~] of [~~the~~] federal surplus property [~~act~~]. [~~The term~~
7 ~~includes federal real property acquired under Section 484(k) of the~~
8 ~~federal act.~~]

9 SECTION 5E.35. Section 2175.362(a), Government Code, is
10 amended to read as follows:

11 (a) The commission is the designated state agency under 40
12 U.S.C. Section 549 and any other federal law providing for the
13 disposal [~~484(j)~~] of [~~the~~] federal surplus property [~~act~~].

14 SECTION 5E.36. Section 2175.364, Government Code, is
15 amended to read as follows:

16 Sec. 2175.364. COMMISSION ASSISTANCE IN PROCUREMENT AND USE
17 OF PROPERTY. The commission may:

18 (1) disseminate information and assist a potential
19 applicant regarding the availability of federal real property;

20 (2) assist in the processing of an application for
21 acquisition of federal real property and related personal property
22 under 40 U.S.C. Section 550 or any other federal law providing for
23 the disposal [~~484(k)~~] of [~~the~~] federal surplus property [~~act~~];

24 (3) act as an information clearinghouse for an entity
25 that may be eligible to acquire federal property and, as necessary,
26 assist the entity to obtain federal property;

27 (4) assist in assuring use of the property; and

1 (5) engage in an activity relating to the use of
2 federal property by another state agency, institution, or
3 organization engaging in or receiving assistance under a federal
4 program.

5 SECTION 5E.37. Section 2175.367, Government Code, is
6 amended to read as follows:

7 Sec. 2175.367. CONTRACTS. The commission may enter into an
8 agreement, including:

9 (1) a cooperative agreement with a federal agency
10 under 40 U.S.C. Section 549 or any other federal law providing for
11 the disposal [~~484(n)~~] of [~~the~~] federal surplus property [~~act~~];

12 (2) an agreement with a state agency for surplus
13 property of a state agency that will promote the administration of
14 the commission's functions under this subchapter; or

15 (3) an agreement with a group or association of state
16 agencies for surplus property that will promote the administration
17 of the commission's functions under this subchapter.

18 SECTION 5E.38. Sections 2175.134(b) and 2175.191(b),
19 Government Code, are repealed.

20 SECTION 5E.39. This article applies only to surplus and
21 salvage property of the state sold on or after September 1, 2003.

22 SECTION 5E.40. Section 2166.2531(d), Government Code, is
23 amended to read as follows:

24 (d) The commission shall prepare a request for
25 qualifications that includes general information on the project
26 site, project scope, [~~budget~~] special systems, selection
27 criteria, and other information that may assist potential

1 design-build firms in submitting proposals for the project. The
2 commission shall also prepare a design criteria package that
3 includes more detailed information on the project. If the
4 preparation of the design criteria package requires engineering or
5 architectural services that constitute the practice of engineering
6 within the meaning of The Texas Engineering Practice Act (Article
7 3271a, Vernon's Texas Civil Statutes) or the practice of
8 architecture within the meaning of Chapter 478, Acts of the 45th
9 Legislature, Regular Session, 1937 (Article 249a, Vernon's Texas
10 Civil Statutes), those services shall be provided in accordance
11 with the applicable law.

12 SECTION 5E.41. Sections 2166.2532(e) and (g), Government
13 Code, are amended to read as follows:

14 (e) The commission shall select the construction
15 manager-at-risk in either a one-step or two-step process. The
16 commission shall prepare a request for proposals, in the case of a
17 one-step process, or a request for qualifications, in the case of a
18 two-step process, that includes general information on the project
19 site, project scope, schedule, selection criteria, ~~[estimated~~
20 ~~budget,~~] and the time and place for receipt of proposals or
21 qualifications, as applicable; a statement as to whether the
22 selection process is a one-step or two-step process; and other
23 information that may assist the commission in its selection of a
24 construction manager-at-risk. The commission shall state the
25 selection criteria in the request for proposals or qualifications,
26 as applicable. The selection criteria may include the offeror's
27 experience, past performance, safety record, proposed personnel

1 and methodology, and other appropriate factors that demonstrate the
2 capability of the construction manager-at-risk. If a one-step
3 process is used, the commission may request, as part of the
4 offeror's proposal, proposed fees and prices for fulfilling the
5 general conditions. If a two-step process is used, the commission
6 may not request fees or prices in step one. In step two, the
7 commission may request that five or fewer offerors, selected solely
8 on the basis of qualifications, provide additional information,
9 including the construction manager-at-risk's proposed fee and its
10 price for fulfilling the general conditions.

11 (g) At each step, the commission shall receive, publicly
12 open, and read aloud the names of the offerors. ~~[At the appropriate~~
13 ~~step, the commission shall also read aloud the fees and prices, if~~
14 ~~any, stated in each proposal as the proposal is opened.]~~ Within 45
15 days after the date of opening the proposals, the commission or its
16 representative shall evaluate and rank each proposal submitted in
17 relation to the criteria set forth in the request for proposals.

18 SECTION 5E.42. Sections 2166.2533(d) and (f), Government
19 Code, are amended to read as follows:

20 (d) The commission shall prepare a request for competitive
21 sealed proposals that includes construction documents, selection
22 criteria, ~~[estimated budget,]~~ project scope, schedule, and other
23 information that contractors may require to respond to the request.
24 The commission shall state in the request for proposals all of the
25 selection criteria that will be used in selecting the successful
26 offeror.

27 (f) The commission shall receive, publicly open, and read

1 aloud the names of the offerors [~~and, if any are required to be~~
2 ~~stated, all prices stated in each proposal~~]. Within 45 days after
3 the date of opening the proposals, the commission shall evaluate
4 and rank each proposal submitted in relation to the published
5 selection criteria.

6 SECTION 5E.43. Subchapter F, Chapter 2166, Government Code,
7 is amended by adding Section 2166.260 to read as follows:

8 Sec. 2166.260. APPROVAL OF CERTAIN EXPENDITURES REQUIRED.
9 A state agency may not spend more than the amount authorized for the
10 cost of a project unless the governor and the Legislative Budget
11 Board approve the expenditure. Once the cost of a project reaches
12 the amount authorized for the project, each change to approved
13 project plans must be approved by the governor and the Legislative
14 Budget Board.

15 SECTION 5E.44. Section 2166.305(b), Government Code, is
16 amended to read as follows:

17 (b) A committee appointed by the commission shall perform
18 the review. The committee consists of:

19 (1) the director of facilities construction and space
20 management appointed under Section 2152.104, who serves [~~ex~~
21 ~~officio~~] as the presiding officer of the committee [~~and who votes~~
22 ~~only in case of a tie~~];

23 (2) seven individuals appointed by the commission, one
24 each from the lists of nominees submitted respectively by the:

25 (A) president of the Texas Society of Architects;

26 (B) president of the Texas Society of
27 Professional Engineers;

1 (C) presiding officer of the Executive Council of
2 the Texas Associated General Contractors Chapters;

3 (D) executive secretary of the Mechanical
4 Contractors Associations of Texas, Incorporated;

5 (E) executive secretary of the Texas Building and
6 Construction Trades Council;

7 (F) president of the Associated Builders and
8 Contractors of Texas; and

9 (G) executive director of the National
10 Association of Minority Contractors, with the list composed of
11 persons who reside in this state;

12 (3) one individual appointed by the commission
13 representing an institution of higher education, as defined by
14 Section 61.003, Education Code;

15 (4) one individual appointed by the commission
16 representing a state agency that has a substantial ongoing
17 construction program; ~~and~~

18 (5) one individual appointed by the commission
19 representing the attorney general's office; and

20 (6) one individual appointed by the commission
21 representing the interests of historically underutilized
22 businesses.

23 SECTION 5E.45. Section 2166.201, Government Code, is
24 repealed.

25 SECTION 5E.46. This article applies only to a Texas
26 Building and Procurement Commission request for competitive
27 proposals under Chapter 2166, Government Code, as amended by this

1 article, on or after September 1, 2003.

2 ARTICLE 5F. WATER CONTRACTS

3 SECTION 5F.01. Section 11.041, Water Code, is amended by
4 amending Subsection (a) and adding Subsection (h) to read as
5 follows:

6 (a) Any person entitled to receive or use water from any
7 canal, ditch, flume, lateral, dam, reservoir, or lake or from any
8 conserved or stored supply may present to the commission a written
9 petition showing:

10 (1) that he is entitled to receive or use the water;

11 (2) that he is willing and able to pay a just and
12 reasonable price for the water;

13 (3) that the party owning or controlling the water
14 supply has water not contracted to others and available for the
15 petitioner's use; ~~and~~

16 (4) that the party owning or controlling the water
17 supply fails or refuses to supply the available water to the
18 petitioner, or that the price or rental demanded for the available
19 water is not reasonable and just or is discriminatory; and

20 (5) that the petitioner has not entered into a
21 contract with the party owning or controlling the water supply.

22 (h) Notwithstanding any other law, the commission may not
23 amend, interpret, impair, or modify a written contract for the
24 wholesale provision of water for any purpose provided by this
25 chapter or Chapter 12 or 13.

26 SECTION 5F.02. Section 12.013, Water Code, is amended by
27 adding Subsection (i) to read as follows:

1 (i) Notwithstanding any other law, the commission may not
2 amend, interpret, impair, or modify a written contract for the
3 wholesale provision of raw or treated water for any purpose
4 provided by Chapter 11, this chapter, or Chapter 13.

5 SECTION 5F.03. Section 13.041, Water Code, is amended by
6 adding Subsection (h) to read as follows:

7 (h) Notwithstanding any other law, the commission may not
8 amend, interpret, impair, or modify a written contract for the
9 wholesale provision of water for any purpose provided by Chapter 11
10 or 12 or this chapter.

11 SECTION 5F.04. The changes in law made by this article apply
12 only to a contract executed on or after the effective date of this
13 article. A contract executed before the effective date of this
14 article is governed by the law in effect on the date the contract
15 was executed, and the former law is continued in effect for that
16 purpose.

17 ARTICLE 5G. TRAVEL SERVICES CONTRACTS

18 SECTION 5G.01. Sections 2171.052(b) and (c), Government
19 Code, are amended to read as follows:

20 (b) The central travel office may ~~[shall]~~ negotiate
21 contracts with private travel agents, with travel and
22 transportation providers, and with credit card companies that
23 provide travel services and other benefits to the state. The
24 central travel office may ~~[shall]~~ negotiate with commercial lodging
25 establishments to obtain the most cost-effective rates possible for
26 state employees traveling on state business.

27 (c) The commission may ~~[shall]~~ make contracts with travel

1 agents that meet certain reasonable requirements prescribed by the
2 central travel office, ~~[allowing contracts to provide travel~~
3 ~~services by as many private travel agents as possible]~~ with
4 preference given to resident entities of this state.

5 SECTION 5G.02. Section 2171.052(e), Government Code, is
6 repealed.

7 ARTICLE 5H. ADMINISTRATION OF TEXAS BUILDING AND PROCUREMENT
8 COMMISSION

9 SECTION 5H.01. Section 2152.051, Government Code, is
10 amended to read as follows:

11 Sec. 2152.051. COMPOSITION OF COMMISSION. (a) The
12 commission consists of five members appointed by the governor.

13 (b) Subsection (a) governs the composition of the
14 commission after January 31, 2007. On or before that date, this
15 subsection governs the composition of the commission. The
16 commission consists of seven members, of whom~~+~~

17 ~~[(1)]~~ three members are appointed by the governor~~,~~~~+~~

18 ~~[(2)]~~ two additional members are appointed by the
19 governor from a list of nominees submitted by the speaker of the
20 house of representatives~~,~~~~+~~ and

21 ~~[(3)]~~ two members are appointed by the lieutenant
22 governor. The members serving on the commission immediately before
23 the effective date of the Act of the 78th Legislature, Regular
24 Session, 2003, that amended this section and added this subsection
25 are entitled to continue to serve on the commission for the terms
26 for which they were appointed if they are otherwise qualified for
27 their positions. Notwithstanding Section 2152.057, for the period

in which the commission consists of seven members under this subsection, two or three members' terms expire on January 31 of each odd-numbered year. If, on or before January 31, 2007, the term of any position on the commission expires or a vacancy is created in any position on the commission, the governor shall appoint a person to fill the position. However, the two positions on the commission that are filled by appointment by the governor from a list submitted by the speaker are abolished on the expiration of the positions' terms on January 31, 2007. This subsection expires September 1, 2009.

~~[(b) In making an appointment under Subsection (a)(2), the governor may reject one or more of the nominees on a list submitted by the speaker of the house of representatives and request a new list of different nominees.]~~

SECTION 5H.02. Section 2152.052(b), Government Code, is amended to read as follows:

(b) In making appointments under this section, the governor ~~[and lieutenant governor]~~ shall attempt to appoint women and members of different minority groups, including African Americans, Hispanic Americans, Native Americans, and Asian Americans.

SECTION 5H.03. Section 2152.057, Government Code, is amended to read as follows:

Sec. 2152.057. TERMS. Commission members serve staggered six-year terms with one or two ~~[or three]~~ members' terms expiring January 31 of each odd-numbered year.

SECTION 5H.04. Section 2152.058(b), Government Code, is amended to read as follows:

1 (b) The commission shall meet at least quarterly [~~once each~~
2 ~~month~~]. The commission may meet at other times at the call of the
3 presiding officer or as provided by the commission's rules.

4 SECTION 5H.05. Subchapter B, Chapter 2152, Government Code,
5 is amended by adding Section 2152.065 to read as follows:

6 Sec. 2152.065. REPRESENTATION ON BOARD OR COMMITTEE. If
7 the commission must be represented on a board or committee, the
8 executive director or the executive director's designee shall serve
9 as the commission's representative on the board or committee unless
10 the presiding officer of the commission elects to personally serve
11 as the commission's representative or appoints a specific person to
12 serve as the commission's representative on the board or committee.

13 SECTION 5H.06. Section 2152.104(a), Government Code, is
14 amended to read as follows:

15 (a) The commission shall have an appropriate number of
16 ~~[three]~~ associate deputy directors.

17 SECTION 5H.07. Section 2172.001(a), Government Code, is
18 amended to read as follows:

19 ~~[(a)]~~ The commission may ~~[shall]~~ operate a central supply
20 store at which only state agencies, the legislature, and
21 legislative agencies may obtain small supply items. If the
22 commission operates a central supply store, the commission shall
23 devise an appropriate method of billing a using entity for the
24 supplies.

25 SECTION 5H.08. Section 2172.002(a), Government Code, is
26 amended to read as follows:

27 (a) The commission may ~~[shall]~~ maintain a facility for

1 repairing office machines and may [~~shall~~] offer repair services to
2 the following entities located in Austin:

- 3 (1) state agencies;
4 (2) the legislature; and
5 (3) legislative agencies.

6 SECTION 5H.09. Section 2172.001(b), Government Code, is
7 repealed.

8 [ARTICLE 5I. RESERVED]

9 ARTICLE 5J. STATE AGENCY LETTERHEAD

10 SECTION 5J.01. Subchapter C, Chapter 2054, Government Code,
11 is amended by adding Section 2054.062 to read as follows:

12 Sec. 2054.062. STATE AGENCY LETTERHEAD. The department
13 shall create a program that automatically generates letterhead for
14 a state agency on an agency computer.

15 [PART 6. RESERVED]

16 PART 7. PERSONNEL AND HUMAN RESOURCES

17 ARTICLE 7A. RETIREMENT SYSTEM CREDIT ESTABLISHED BY STATE
18 EMPLOYEES

19 SECTION 7A.01. Section 812.003, Government Code, is amended
20 by amending Subsection (d) and adding Subsections (e) and (f) to
21 read as follows:

22 (d) Membership in the employee class begins on the 91st day
23 after the first day a person is employed or holds office.

24 (e) A person who is reemployed or who again holds office
25 after withdrawing contributions under Subchapter B for previous
26 service credited in the employee class begins membership in the
27 employee class on the 91st day after the first day the person is

1 reemployed or again holds office.

2 (f) Notwithstanding any other provision of law, a member may
3 establish credit only as provided by Section 813.514 for service
4 performed during the 90-day waiting period provided by Subsection
5 (d) or (e).

6 SECTION 7A.02. Subchapter F, Chapter 813, Government Code,
7 is amended by adding Section 813.514 to read as follows:

8 Sec. 813.514. CREDIT PURCHASE OPTION FOR CERTAIN SERVICE.

9 (a) A member may establish credit under this section in the
10 employee class only for service performed during the 90-day waiting
11 period provided by Section 812.003(d) or (e).

12 (b) A member may establish service credit under this section
13 by depositing with the retirement system, for each month of service
14 credit, the actuarial present value, at the time of deposit, of the
15 additional standard retirement annuity benefits that would be
16 attributable to the purchase of the service credit under this
17 section based on rates and tables recommended by the retirement
18 system's actuary and adopted by the board of trustees.

19 (c) After a member makes the deposits required by this
20 section, the retirement system shall grant the member one month of
21 equivalent membership service credit for each month of credit
22 approved. A member may establish not more than three months of
23 equivalent membership service credit under this section.

24 (d) The retirement system shall deposit the amount of the
25 actuarial present value of the service credit purchased in the
26 member's individual account in the employees saving account.

27 (e) The board of trustees may adopt rules to administer this

1 section, including rules that impose restrictions on the
2 application of this section as necessary to cost-effectively
3 administer this section.

4 SECTION 7A.03. Section 812.003, Government Code, as amended
5 by this article, and Section 813.514, Government Code, as added by
6 this article, apply only to a person who is first employed by or
7 begins to hold an office of the state on or after the effective date
8 of this article and to a former employee or office holder who has
9 withdrawn retirement contributions under Subchapter B, Chapter
10 812, Government Code, and is reemployed by or begins to again hold
11 an office of the state on or after the effective date of this
12 article.

13 ARTICLE 7B. TEXAS EMPLOYEES GROUP HEALTH BENEFIT PLAN

14 SECTION 7B.01. Subchapter E, Chapter 1551, Insurance Code,
15 as effective June 1, 2003, is amended by adding Section 1551.219 to
16 read as follows:

17 Sec. 1551.219. MAIL ORDER REQUIREMENT FOR PRESCRIPTION DRUG
18 COVERAGE PROHIBITED. The board of trustees or a health benefit plan
19 under this chapter that provides benefits for prescription drugs
20 may not require a participant in the group benefits program to
21 purchase a prescription drug through a mail order program. The
22 board or health benefit plan shall require that a participant who
23 chooses to obtain a prescription drug through a retail pharmacy or
24 other method other than by mail order pay a deductible, copayment,
25 coinsurance, or other cost-sharing obligation to cover the
26 additional cost of obtaining a prescription drug through that
27 method rather than by mail order.

ARTICLE 7C. STATE AGENCY HUMAN RESOURCES STAFFING AND FUNCTIONS

SECTION 7C.01. Subtitle B, Title 6, Government Code, is amended by adding Chapter 670 to read as follows:

CHAPTER 670. HUMAN RESOURCES STAFFING AND FUNCTIONS

Sec. 670.001. DEFINITION. In this chapter, "state agency" means a department, commission, board, office, authority, council, or other governmental entity in the executive branch of government that is created by the constitution or a statute of this state and has authority not limited to a geographical portion of the state. The term does not include a university system or institution of higher education as defined by Section 61.003, Education Code.

Sec. 670.002. HUMAN RESOURCES STAFFING FOR LARGE STATE AGENCIES. A state agency with 500 or more full-time equivalent employees shall adjust the agency's human resources staff to achieve a human resources employee-to-staff ratio of not more than one human resources employee for every 100 staff members.

Sec. 670.003. HUMAN RESOURCES STAFFING FOR MEDIUM-SIZED AND SMALL STATE AGENCIES; OUTSOURCING. (a) The State Council on Competitive Government shall determine the cost-effectiveness of consolidating the human resources functions of or contracting with private entities to perform the human resources functions of state agencies that employ fewer than 500 full-time equivalent employees.

(b) If the council determines that contracting with private entities is cost-effective, the council shall issue a request for proposals for vendors to perform the human resources functions of the agencies.

(c) The council shall determine which human resources

1 functions are subject to the contract and which functions the
2 agency may select to perform itself.

3 (d) Each agency shall pay for the contracts for human
4 resources functions out of the agency's human resources budget.

5 SECTION 7C.02. (a) Not later than September 1, 2003, each
6 state agency with 500 or more full-time equivalent employees shall
7 comply with the human resources employee-to-staff ratio
8 requirements in Section 670.002, Government Code, as added by this
9 article.

10 (b) Not later than January 1, 2004, the State Council on
11 Competitive Government shall conduct an initial feasibility study
12 to determine the cost-effectiveness of consolidating the human
13 resources functions of or contracting with private entities to
14 perform human resources functions of state agencies under Section
15 670.003, Government Code, as added by this article.

16 ARTICLE 7D. INSURANCE FOR VOLUNTEER MEMBERS OF STATE BOARDS

17 SECTION 7D.01. Section 1551.101(c), Insurance Code, as
18 effective June 1, 2003, is amended to read as follows:

19 (c) Subject to Section 1551.321, an ~~An~~ individual is
20 eligible to participate in the group benefits program as provided
21 by Subsection (a) if the individual is appointed, subject to
22 confirmation by the senate, as a member of the governing body with
23 administrative responsibility over a statutory state agency that
24 has statewide jurisdiction and whose employees are covered by this
25 chapter.

26 SECTION 7D.02. Subchapter G, Chapter 1551, Insurance Code,
27 as effective June 1, 2003, is amended by adding Section 1551.321 to

read as follows:

Sec. 1551.321. STATE CONTRIBUTION FOR CERTAIN INDIVIDUALS.

(a) The state or a state agency may not make any contribution to the cost of any coverages or benefits provided under this chapter for an individual described by Section 1551.101(c) or a dependent of the individual.

(b) An individual described by Section 1551.101(c) who participates in the group benefits program shall pay to the trustee, in the manner specified by the trustee, the full cost of the coverages or benefits provided to the individual or a dependent of the individual.

SECTION 7D.03. (a) The change in law made by this article by the addition of Section 1551.321, Insurance Code, applies only to group coverages provided under the group benefits program established under Chapter 1551, Insurance Code, on and after September 1, 2003.

(b) Not later than the 30th day after the effective date of Section 1551.321, Insurance Code, as added by this article, the Employees Retirement System of Texas shall notify each individual eligible to participate in the group benefits program under Chapter 1551, Insurance Code, in accordance with Section 1551.101(c), Insurance Code, of the applicable requirements of Section 1551.321, Insurance Code.

ARTICLE 7E. AGENCY STAFFING AND PRODUCTIVITY

SECTION 7E.01. Subchapter K, Chapter 659, Government Code, is amended by adding Section 659.262 to read as follows:

Sec. 659.262. ADDITIONAL COMPENSATION FOR CERTAIN

1 CLASSIFIED STATE EMPLOYEES. (a) In this section, "state agency"
2 means an agency of any branch of state government that employs
3 individuals who are classified under Chapter 654.

4 (b) To enhance the recruitment of competent personnel for
5 certain classified employee positions, a state agency may provide
6 to a state employee, at the time of the employee's hiring for a
7 classified position, additional compensation in the form of a
8 one-time recruitment payment not to exceed \$5,000. If the employee
9 discontinues employment with the state agency for any reason less
10 than three months after the date of receiving the recruitment
11 payment, the employee shall refund to the state agency the full
12 amount of the recruitment payment. If the employee discontinues
13 employment with the state agency for any reason three months or
14 longer but less than 12 months after the date of receiving the
15 recruitment payment, the employee shall refund to the state agency
16 an amount computed by:

17 (1) subtracting from 12 months the number of complete
18 calendar months the employee worked after the date of receiving the
19 recruitment payment;

20 (2) dividing the number of months computed under
21 Subdivision (1) by 12 months; and

22 (3) multiplying the fraction computed under
23 Subdivision (2) by the amount of the recruitment payment.

24 (c) To enhance the retention of employees who are employed
25 in certain classified positions that are identified by the chief
26 administrator of a state agency as essential for the state agency's
27 operations, a state agency may enter into a deferred compensation

1 contract with a classified employee to provide to the employee a
2 one-time additional compensation payment not to exceed \$5,000 to be
3 added to the employee's salary payment the month after the
4 conclusion of the 12-month period of service under the deferred
5 compensation contract.

6 (d) To be eligible to enter into a contract for deferred
7 compensation under Subsection (c), a state employee must have
8 already completed at least 12 months of service in a classified
9 position.

10 (e) The chief administrator of a state agency shall
11 determine whether additional compensation is necessary under this
12 section on a case-by-case basis, considering:

13 (1) the criticality of the employee position in the
14 operations of the state agency;

15 (2) evidence of high turnover rates among employees
16 filling the position or an extended period during which the
17 position is or has in the past been vacant;

18 (3) evidence of a shortage of employees qualified to
19 fill the position or a shortage of qualified applicants; and

20 (4) other relevant factors.

21 (f) Before an agency provides or enters into a contract to
22 provide additional compensation to an employee under this section,
23 the chief administrator of the state agency must certify to the
24 comptroller in writing the reasons why the additional compensation
25 is necessary.

26 (g) Additional compensation paid to an employee under this
27 section is specifically exempted from any limitation on salary or

1 salary increases prescribed by this chapter.

2 SECTION 7E.02. Subtitle B, Title 6, Government Code, is
3 amended by adding Chapter 670 to read as follows:

4 CHAPTER 670. MANAGEMENT PERFORMANCE PROGRAM

5 Sec. 670.001. DEFINITION. In this chapter, "state agency"
6 means an agency in the executive branch of state government.

7 Sec. 670.002. UPPER MANAGEMENT PERFORMANCE
8 AGREEMENTS. (a) The governing body of a state agency shall
9 develop and enter into agreements with employees of the agency who
10 serve in upper management positions, including the chief executive
11 or chief administrator of the agency.

12 (b) An agreement under this section shall:

13 (1) communicate to the upper management employee the
14 agency's overall organizational goals and specific strategic aims;

15 (2) identify the specific performance measures and
16 targets applicable to the unique programs for which the upper
17 management employee is responsible; and

18 (3) explain the procedures that will be used by the
19 agency to hold the upper management employee accountable for
20 performance under the agreement, including annual performance
21 review procedures.

22 SECTION 7E.03. Effective September 1, 2003, Section
23 651.004, Government Code, is amended by adding Subsections (c-1)
24 and (d) to read as follows:

25 (c-1) A state agency in the executive branch of state
26 government that employs more than 100 full-time equivalent
27 employees may not, after August 31, 2004, employ more than one

1 full-time equivalent employee in a management position for every
2 eight full-time equivalent employees that the agency employs in
3 nonmanagerial staff positions. This subsection expires September
4 1, 2005.

5 (d) A state agency that believes that the minimum
6 management-to-staff ratios required by this section are
7 inappropriate for that agency may appeal to the governor. The
8 governor's decision regarding management-to-staff ratios is final.
9 The governor by rule shall adopt appeal procedures.

10 SECTION 7E.04. Effective September 1, 2004, Section
11 651.004, Government Code, is amended by adding Subsection (c-2) to
12 read as follows:

13 (c-2) A state agency in the executive branch of state
14 government that employs more than 100 full-time equivalent
15 employees may not, after August 31, 2005, employ more than one
16 full-time equivalent employee in a management position for every
17 nine full-time equivalent employees that the agency employs in
18 nonmanagerial staff positions. This subsection expires September
19 1, 2006.

20 SECTION 7E.05. Effective September 1, 2005, Section
21 651.004, Government Code, is amended by adding Subsection (c-3) to
22 read as follows:

23 (c-3) A state agency in the executive branch of state
24 government that employs more than 100 full-time equivalent
25 employees may not, after August 31, 2006, employ more than one
26 full-time equivalent employee in a management position for every 10
27 full-time equivalent employees that the agency employs in

1 nonmanagerial staff positions. This subsection expires September
2 1, 2007.

3 SECTION 7E.06. (a) Effective September 1, 2006, Section
4 651.004, Government Code, is amended by adding Subsection (c) to
5 read as follows:

6 (c) A state agency in the executive branch of state
7 government that employs more than 100 full-time equivalent
8 employees may not employ more than one full-time equivalent
9 employee in a management position for every 11 full-time equivalent
10 employees that the agency employs in nonmanagerial staff positions.

11 (b) A state agency in the executive branch of government
12 shall achieve the management-to-staff ratio required by Section
13 651.004(c), Government Code, as added by this section, not later
14 than August 31, 2007.

15 SECTION 7E.07. Section 656.048(b), Government Code, is
16 repealed.

17 PART 8. ENVIRONMENT

18 ARTICLE 8A. NONADJUDICATIVE NOTICE AND HEARING

19 SECTION 8A.01. Chapter 5, Water Code, is amended by adding
20 Subchapter S to read as follows:

21 SUBCHAPTER S. NONADJUDICATIVE NOTICE AND HEARING

22 Sec. 5.851. APPLICABILITY. This subchapter provides
23 procedures for providing public notice, opportunity for public
24 comment, and an opportunity for a nonadjudicative hearing regarding
25 commission actions relating to certain permits issued under Chapter
26 26 or 27 or under Chapter 361 or 382, Health and Safety Code.

27 Sec. 5.852. PRELIMINARY DECISION. (a) The executive

1 director shall conduct a technical review of and issue a
2 preliminary decision on an application for a permit.

3 (b) Notice of the preliminary decision must be provided as
4 prescribed by Section 5.854.

5 (c) The applicant shall make available for review a copy of
6 the application and preliminary decision at a public place in the
7 county in which the facility is located or proposed to be located.

8 Sec. 5.853. NOTICE CONTENT; PUBLIC COMMENT PERIOD. (a) The
9 commission by rule shall establish:

10 (1) the form, content, and timing of the notice; and

11 (2) the duration of the public comment period.

12 (b) Notice must be provided as follows:

13 (1) the chief clerk of the commission shall mail
14 notice to:

15 (A) the state senator and representative who
16 represent the general area in which the facility is located or
17 proposed to be located; and

18 (B) any other person designated by commission
19 rule; and

20 (2) the applicant shall publish notice in a newspaper
21 of general circulation in the county in which the facility is
22 located or proposed to be located.

23 (c) The notice must include:

24 (1) the permit application number;

25 (2) the applicant's name and address;

26 (3) the location of the facility and the nature of the
27 proposed activity at the facility;

1 (4) the location at which copies of the application
2 and preliminary decision are available for review;

3 (5) a description of any procedural rights of the
4 public; and

5 (6) a 30-day public comment period, except as
6 otherwise provided by commission rule.

7 Sec. 5.854. NONADJUDICATIVE HEARING. (a) A hearing on an
8 application for issuance, amendment, modification, or renewal of a
9 permit subject to this subchapter must be conducted under this
10 section. Chapter 2001, Government Code, does not apply to a hearing
11 under this subchapter.

12 (b) The executive director shall hold a nonadjudicative
13 hearing for an application if, after the close of the public comment
14 period, there is significant public interest in the application.

15 (c) At the hearing, any person may submit an oral or written
16 statement regarding the application for the permit. The public
17 comment period extends to the close of the hearing.

18 (d) In determining whether to issue the permit and what
19 conditions should be included if a permit is issued, the executive
20 director shall consider all comments received during the public
21 comment period and at the hearing.

22 Sec. 5.855. RESPONSE TO PUBLIC COMMENTS; PREPARATION OF
23 FACT SHEET. (a) If necessary to satisfy a requirement for federal
24 authorization of a state permit program, the executive director, in
25 a manner consistent with commission rule, shall file with the chief
26 clerk of the commission a response to each significant written
27 public comment on the preliminary decision filed during the public

1 comment period.

2 (b) For an application that is not subject to Subsection
3 (a), the executive director shall submit to the chief clerk of the
4 commission a statement that briefly describes the principal facts
5 and significant legal and policy issues related to the application.

6 ARTICLE 8B. PUBLIC PARTICIPATION

7 SECTION 8B.01. Subchapter D, Chapter 5, Water Code, is
8 amended by adding Sections 5.132 and 5.133 to read as follows:

9 Sec. 5.132. GENERAL PERMITS. (a) The commission may issue
10 a general permit to authorize a regulated activity for a category of
11 entities if the commission finds that:

12 (1) the types of operations of the entities are the
13 same or substantially similar;

14 (2) the activity is more appropriately regulated under
15 a general permit than under an individual permit;

16 (3) the general permit is enforceable;

17 (4) the commission can adequately monitor compliance
18 with the terms of the general permit; and

19 (5) the general permit does not conflict with any
20 requirement to maintain federal program authorization.

21 (b) The commission shall publish notice of a proposed
22 general permit in the Texas Register and in a newspaper of general
23 circulation in the area affected by the activity that is the subject
24 of the proposed general permit. For a statewide general permit, the
25 commission shall designate one or more newspapers of statewide or
26 regional circulation and shall publish notice of the proposed
27 statewide general permit in each designated newspaper in addition

1 to the Texas Register. The notice shall invite written comments and
2 be published not later than the 30th day before the commission
3 issues the general permit.

4 (c) The commission may hold a public meeting to provide an
5 additional opportunity for public comment. The commission shall
6 give notice of a public meeting as provided by Subsection (b) not
7 later than the 30th day before the date of the meeting.

8 (d) If the commission receives public comment relating to
9 issuance of a general permit, the commission may issue the general
10 permit only after responding in writing to the comments. The
11 commission shall issue a written response to comments on the permit
12 at the same time the commission issues or denies the permit. The
13 commission shall make its response available to the public and
14 shall mail its response to each person who made a comment.

15 (e) A general permit must include the procedures for
16 obtaining authorization under the terms of the general permit.

17 (f) The commission by rule shall establish procedures for
18 the issuance, amendment, renewal, suspension, revocation, or
19 cancellation of a general permit.

20 (g) The commission may impose a reasonable and necessary fee
21 for authorization to use general permits under this section.

22 (h) The issuance, amendment, renewal, suspension,
23 revocation, or cancellation of a general permit or of authorization
24 to use a general permit is not subject to Subchapters C-F, Chapter
25 2001, Government Code.

26 (i) The commission may adopt rules as necessary to implement
27 and administer this section.

1 (j) The commission may delegate to the executive director
2 the authority to issue, amend, renew, suspend, revoke, or cancel a
3 general permit or an authorization to use a general permit.

4 Sec. 5.133. TIME LIMIT FOR ISSUANCE OR DENIAL OF PERMITS.

5 (a) Except as provided in Subsection (b), all permit decisions
6 shall be made within 180 days of the date of the receipt of the
7 permit application or application amendment or the date of the
8 determination of administrative completeness, whichever date is
9 later.

10 (b) This section does not apply to a permit issued under a
11 federally delegated or approved program unless allowed under that
12 program.

13 SECTION 8B.02. Section 5.551, Water Code, is amended by
14 amending Subsection (a) and adding Subsection (d) to read as
15 follows:

16 (a) This subchapter establishes procedures for providing
17 public notice, an opportunity for public comment, and a contested
18 case ~~[an opportunity for public]~~ hearing under ~~[Subchapters C-H,~~
19 Chapter 2001, Government Code, regarding commission actions
20 relating to a permit issued under Chapter 26 or 27 ~~[of this code]~~ or
21 under Chapter 361 or 382, Health and Safety Code. This subchapter
22 is procedural and does not expand or restrict the types of
23 commission actions for which public notice, an opportunity for
24 public comment, and a contested case ~~[an opportunity for public]~~
25 hearing are provided under Chapter 26 or 27 ~~[of this code]~~ or
26 Chapter 361 or 382, Health and Safety Code.

27 (d) The procedures established by this subchapter apply to

1 permits subject to a contested case hearing and supersede any other
2 procedural requirements in Chapter 26 or 27 and under Chapter 361 or
3 382, Health and Safety Code, relating to public notice, public
4 comment, public meetings, and a request for a contested case
5 hearing.

6 SECTION 8B.03. Subchapter M, Chapter 5, Water Code, is
7 amended by adding Section 5.5515 to read as follows:

8 Sec. 5.5515. NOTICE CONTENT; PUBLIC COMMENT PERIOD. (a)
9 The commission by rule shall establish the form, content, and
10 timing of the notice and the duration of the public comment period.

11 (b) Notice shall be provided by the following methods:

12 (1) the chief clerk shall mail notice to the state
13 senator and representative who represent the general area in which
14 the facility is located or proposed to be located and any other
15 persons designated by commission rule; and

16 (2) the applicant shall publish notice in a newspaper
17 of general circulation in the county in which the facility is
18 located or proposed to be located.

19 (c) The notice must include:

20 (1) the permit application number;
21 (2) the applicant's name and address;
22 (3) the location of the facility and the nature of the
23 proposed activity;

24 (4) the location at which a copy of the application and
25 preliminary decision is available for review and copying at a
26 public place in the county in which the facility is located or
27 proposed to be located;

1 (5) a description of the procedural rights and
2 obligations of the public; and

3 (6) a 30-day public comment period unless otherwise
4 provided by commission rule.

5 SECTION 8B.04. The heading to Section 5.553, Water Code, is
6 amended to read as follows:

7 Sec. 5.553. PRELIMINARY DECISION[~~, NOTICE AND PUBLIC~~
8 ~~COMMENT~~].

9 SECTION 8B.05. Section 5.553, Water Code, is amended by
10 adding Subsection (a-1) and amending Subsection (e) to read as
11 follows:

12 (a-1) Notice of the preliminary decision must be provided in
13 accordance with Section 5.5515.

14 (e) The applicant shall make a copy of the application and
15 preliminary decision available for review and copying at a public
16 place in the county in which the facility is located or proposed to
17 be located.

18 SECTION 8B.06. Section 5.554, Water Code, is amended to
19 read as follows:

20 Sec. 5.554. PUBLIC MEETING. (a) During the public comment
21 period, the executive director may hold one or more public meetings
22 in the county in which the facility is located or proposed to be
23 located. The executive director shall hold a public meeting:

24 (1) on the request of a member of the legislature who
25 represents the general area in which the facility is located or
26 proposed to be located; or

27 (2) if the executive director determines that there is

substantial public interest in the proposed activity.

(b) The applicant shall publish notice of a public meeting in a newspaper of general circulation in the county in which the facility is located or proposed to be located at least 30 days before the public meeting unless otherwise provided by commission rule.

SECTION 8B.07. Section 5.555, Water Code, is amended to read as follows:

Sec. 5.555. RESPONSE TO PUBLIC COMMENTS; PREPARATION OF FACT SHEET. (a) If necessary to satisfy a requirement for federal authorization of a state permit program, the ~~[The]~~ executive director, in accordance with ~~[procedures provided by]~~ commission rules ~~[rule]~~, shall file with the chief clerk of the commission a response to each significant written ~~[relevant and material]~~ public comment on the preliminary decision filed during the public comment period.

(b) For applications that are not subject to Subsection (a), the executive director shall prepare a fact sheet that briefly describes the principal facts and significant legal and policy issues and shall file the fact sheet with the chief clerk of the commission ~~[The chief clerk of the commission shall transmit the executive director's decision, the executive director's response to public comments, and instructions for requesting that the commission reconsider the executive director's decision or hold a contested case hearing to:~~

~~[(1) the applicant,~~

~~[(2) any person who submitted comments during the~~

1 ~~public comment period; and~~

2 ~~[(3) any person who requested to be on the mailing list~~
3 ~~for the permit action].~~

4 SECTION 8B.08. The heading to Section 5.556, Water Code, is
5 amended to read as follows:

6 Sec. 5.556. REQUEST FOR ~~[RECONSIDERATION OR]~~ CONTESTED CASE
7 HEARING.

8 SECTION 8B.09. Section 5.556, Water Code, is amended by
9 amending Subsections (a), (b), (c), and (f), and by adding
10 Subsections (d-1)-(d-9) to read as follows:

11 (a) A person may request that the executive director refer
12 an application to the State Office of Administrative Hearings for
13 ~~[commission reconsider the executive director's decision or hold]~~ a
14 contested case hearing. A request must be filed with the chief
15 clerk of the commission during the period provided by commission
16 rule.

17 (b) The executive director ~~[commission]~~ shall act on a
18 request during the period provided by commission rule.

19 (c) The executive director on receiving ~~[commission may not~~
20 ~~grant]~~ a request for a contested case hearing ~~[unless the~~
21 ~~commission determines that the request was filed]~~ by the applicant
22 or by an affected person as defined by Subsections (d-1)-(d-5),
23 shall refer an application to the commission's office of hearings
24 examiners ~~[Section 5.115]~~.

25 (d-1) For applications under Chapter 382, Health and Safety
26 Code, an affected person is a person who:

27 (1) resides on or owns property within one-half mile

1 of the facility or proposed facility if the application is for a
2 permit or permit amendment to allow emissions below the threshold
3 for major source or major modification, or for a permit renewal; or

4 (2) resides on or owns property within one mile of the
5 facility or proposed facility if the application is for a permit or
6 permit amendment for a major source or major modification.

7 (d-2) For industrial solid waste and hazardous waste
8 applications under Chapter 361, Health and Safety Code, an affected
9 person is a person who resides on or owns property within:

10 (1) one-half mile of the facility or proposed facility
11 if the application is for a major amendment, Class 3 modification,
12 or renewal; or

13 (2) one mile of the facility or proposed facility if
14 the application is for a new permit.

15 (d-3) For municipal solid waste applications under Chapter
16 361, Health and Safety Code, an affected person is a person who
17 resides on or owns property within:

18 (1) one-half mile of the facility or proposed facility
19 if the application is for a major amendment or a modification that
20 requires notice; or

21 (2) one mile of the facility or proposed facility if
22 the application is for a new permit.

23 (d-4) For underground injection well applications under
24 Chapter 27, an affected person is a person who, for a new permit,
25 major amendment, or renewal, resides on, owns property on, or owns
26 mineral rights:

27 (1) underlying the facility; or

1 (2) underlying property adjacent to the facility.

2 (d-5) For water quality applications for a new permit, major
3 amendment, or renewal, under Chapter 26, an affected person is a
4 person who resides on or owns property:

5 (1) within one-half mile downstream of a discharge or
6 proposed discharge;

7 (2) within one mile downstream of a discharge or
8 proposed discharge if the proposed discharge is for one million
9 gallons per day or more; or

10 (3) that is adjacent to the property used by the
11 applicant to dispose of or land apply waste or wastewater, or
12 adjacent to the facility or proposed facility.

13 (d-6) An affected person must reside on or own the property
14 specified in Subsections (d-1)-(d-5) on the date of the notice of
15 preliminary decision.

16 (d-7) A group composed of individuals with a common interest
17 and that is potentially affected by the application, an association
18 that has one or more members potentially affected by the
19 application, or a governmental entity with authority under state
20 law over issues relating to the permit application may be an
21 affected person. The commission by rule shall establish criteria
22 for determining whether a group, association, or governmental
23 entity is an affected person.

24 (d-8) A person whose hearing request is not referred to the
25 commission's office of hearings examiners may appeal to the
26 commission as provided by commission rule.

27 (d-9) The commission by rule may establish criteria for the

1 amount of increase proposed to be authorized below which a request
2 for hearing by an affected person may be denied if the commission
3 determines that such an increase is not expected to have a negative
4 impact on human health or the environment.

5 (f) This section does not preclude the executive director
6 from referring any application for a contested case hearing and
7 does not preclude the commission from holding a hearing if it
8 determines that the public interest warrants doing so.

9 SECTION 8B.10. Sections 26.028(c), (d), (g), and (h), Water
10 Code, are amended to read as follows:

11 (c) Except as otherwise provided by this section, the
12 commission, on the motion of a commissioner, or on the request of
13 the executive director or any affected person, shall hold a
14 contested case [~~public~~] hearing on the application for a permit,
15 permit amendment, or renewal of a permit.

16 (d) Notwithstanding any other provision of this chapter,
17 the commission, at a regular meeting without the necessity of
18 holding a contested case [~~public~~] hearing, may approve an
19 application to renew or amend a permit if:

20 (1) the applicant is not applying to:

21 (A) increase significantly the quantity of waste
22 authorized to be discharged; or

23 (B) change materially the pattern or place of
24 discharge;

25 (2) the activities to be authorized by the renewed or
26 amended permit will maintain or improve the quality of waste
27 authorized to be discharged;

1 (3) ~~[for NPDES permits,~~ notice and the opportunity to
2 comment and request a nonadjudicative hearing under Subchapter S,
3 Chapter 5, has been ~~[public meeting shall be]~~ given, and a
4 nonadjudicative hearing has been held if required under Subchapter
5 S, Chapter 5 ~~[in compliance with NPDES program requirements, and~~
6 ~~the commission shall consider and respond to all timely received~~
7 ~~and significant public comment]; [and]~~

8 (4) the commission determines that an applicant's
9 compliance history for the preceding five years ~~[under the method~~
10 ~~for evaluating compliance history developed by the commission under~~
11 ~~Section 5.754]~~ raises no issues regarding the applicant's ability
12 to comply with a material term of its permit; and

13 (5) for NPDES permits, the commission has considered
14 and responded to each significant public comment that was timely
15 received.

16 (g) An application to renew a permit for a confined animal
17 feeding operation ~~[which was issued between July 1, 1974, and~~
18 ~~December 31, 1977,~~] may be set for consideration and may be acted on
19 by the commission at a regular meeting without the necessity of
20 holding a contested case ~~[public]~~ hearing if the applicant does not
21 seek to discharge into or adjacent to water in the state and does
22 not seek to change materially the pattern or place of disposal.

23 (h) For the purposes of Subsection (c), the commission may
24 act on the application without holding a contested case ~~[public]~~
25 hearing if all of the following conditions are met:

26 (1) not less than 30 days before the date of action on
27 the application by the commission, the applicant has published the

1 commission's notice of the application at least once in a newspaper
2 regularly published or circulated within each county where the
3 proposed facility or discharge is located and in each county
4 affected by the discharge;

5 (2) not less than 30 days before the date of action on
6 the application by the commission, the applicant has served or
7 mailed the commission's notice of the application to persons who in
8 the judgment of the commission may be affected, including the
9 county judges as required by Subsection (b). As part of the ~~[his]~~
10 application the applicant shall submit an affidavit which lists the
11 names and addresses of the persons who may be affected by the
12 application and includes the source of the list;

13 (3) within 30 days after the date of the newspaper
14 publication of the commission's notice, neither a commissioner, the
15 executive director, nor an affected person who objects to the
16 application has requested a contested case ~~[public]~~ hearing.

17 SECTION 8B.11. Section 361.0666, Health and Safety Code, is
18 amended by adding Subsection (f) to read as follows:

19 (f) A public meeting is not required for a new municipal
20 solid waste facility that is authorized through registration.

21 SECTION 8B.12. Section 361.088(e), Health and Safety Code,
22 is amended to read as follows:

23 (e) This subsection applies to an application for a new
24 permit or permit modification or amendment for post-closure care or
25 corrective action at a solid waste management facility. After
26 complying with Sections 5.5515-5.555 ~~[5.552-5.555]~~, Water Code,
27 the commission, without providing an opportunity for a contested

1 case hearing, may act on an application described by this
2 subsection if notice and opportunity to request a nonadjudicative
3 hearing under Subchapter S, Chapter 5, Water Code, has been given,
4 to renew a permit for:

5 (1) storage of hazardous waste in containers, tanks,
6 or other closed vessels if the waste:

7 (A) was generated on-site; and

8 (B) does not include waste generated from other
9 waste transported to the site; ~~and~~

10 (2) processing of hazardous waste if:

11 (A) the waste was generated on-site;

12 (B) the waste does not include waste generated
13 from other waste transported to the site; and

14 (C) the processing does not include thermal
15 processing; and

16 (3) treatment, storage, or disposal of solid waste,
17 including actions relating to post-closure or corrective action, if
18 the renewal application does not include any changes to
19 authorization provided by the existing permit.

20 SECTION 8B.13. Section 361.121(c), Health and Safety Code,
21 is amended to read as follows:

22 (c) The notice and hearing provisions of Subchapter S ~~[M]~~,
23 Chapter 5, Water Code, ~~[as added by Chapter 1350, Acts of the 76th~~
24 ~~Legislature, Regular Session, 1999,]~~ apply to an application under
25 this section for a permit, a permit amendment, or a permit renewal.

26 SECTION 8B.14. Subchapter C, Chapter 361, Health and Safety
27 Code, is amended by adding Sections 361.123 and 361.124 to read as

1 follows:

2 Sec. 361.123. PERMIT FOR DISPOSAL OF BRUSH, CONSTRUCTION
3 AND DEMOLITION WASTE, AND OTHER NONPUTRESCIBLE WASTES IN
4 ARID-EXEMPT LANDFILLS. This section applies only to a landfill for
5 which an application for an initial permit is filed on or after
6 September 1, 2003, and that is certified as arid-exempt in
7 accordance with commission rule and is designated for the disposal
8 of brush, construction and demolition waste, and other
9 nonputrescible wastes. An application by a landfill for a permit or
10 permit amendment is not subject to a contested case hearing but is
11 subject to notice and opportunity for a nonadjudicative hearing
12 under Subchapter S, Chapter 5, Water Code.

13 Sec. 361.124. PERMIT FOR ANIMAL CREMATORY FACILITY. This
14 section applies only to a facility that stores, processes, or
15 disposes of animal carcasses and that is not eligible for
16 authorization through a permit by rule. An application by a
17 facility for a permit or permit amendment is not subject to a
18 contested case hearing but is subject to the notice and opportunity
19 for a nonadjudicative hearing under Subchapter S, Chapter 5, Water
20 Code.

21 SECTION 8B.15. Section 361.534, Health and Safety Code, is
22 amended by amending Subsection (a) and adding Subsection (c) to
23 read as follows:

24 (a) The commission may hold a public meeting on [~~shall set a~~
25 ~~hearing to be held not later than the 30th day after the date that~~
26 ~~the commission receives~~] an application under this subchapter.

27 (c) Notice of the public meeting shall be mailed and

1 published as provided by commission rule.

2 SECTION 8B.16. Section 382.0518(b), Health and Safety Code,
3 is amended to read as follows:

4 (b) The commission shall grant within a reasonable time a
5 permit or permit amendment to construct or modify a facility if,
6 from the information available to the commission, including
7 information presented at a contested case ~~[any]~~ hearing ~~[held under~~
8 ~~Section 382.056(k)]~~, the commission finds:

9 (1) the proposed facility for which a permit, permit
10 amendment, or a special permit is sought will use at least the best
11 available control technology, considering the technical
12 practicability and economic reasonableness of reducing or
13 eliminating the emissions resulting from the facility; and

14 (2) no indication that the emissions from the facility
15 will contravene the intent of this chapter, including protection of
16 the public's health and physical property.

17 SECTION 8B.17. Section 382.05191, Health and Safety Code,
18 is amended by amending Subsection (a) and adding Subsection (e) to
19 read as follows:

20 (a) An applicant for a permit under Section 382.05183,
21 382.05185(c) or (d), 382.05186, or 382.0519 shall publish notice
22 and provide the opportunity for nonadjudicative hearing ~~[of intent~~
23 ~~to obtain the permit]~~ in accordance with Subchapter S, Chapter 5,
24 Water Code ~~[Section 382.056]~~. An applicant for a permit under
25 Section 382.05186(b) shall publish notice and provide an
26 opportunity for nonadjudicative hearing under Section 382.05197.

27 (e) For an application under Section 382.05183,

1 382.05185(c) or (d), 382.05186, or 382.0519, the executive director
2 shall prepare a fact sheet that briefly describes the principal
3 facts and significant legal and policy issues, as provided by
4 commission rule.

5 SECTION 8B.18. Section 382.05197, Health and Safety Code,
6 is amended by amending Subsection (a) and adding Subsection (e) to
7 read as follows:

8 (a) An application ~~[applicant]~~ for a permit under Section
9 382.05194 is subject to notice and opportunity for contested case
10 hearing ~~[shall publish notice of intent to obtain the permit in~~
11 ~~accordance with Section 382.056, except that the notice of a~~
12 ~~proposed multiple plant permit for existing facilities shall be~~
13 ~~published in one or more statewide or regional newspapers that~~
14 ~~provide reasonable notice throughout the state. If the multiple~~
15 ~~plant permit for existing facilities will be effective for only~~
16 ~~part of the state, the notice shall be published in a newspaper of~~
17 ~~general circulation in the area to be affected. The commission by~~
18 ~~rule may require that additional notice be given].~~

19 (e) Notwithstanding Section 5.5515(c), Water Code, notice
20 of a proposed multiple plant permit for existing facilities shall
21 be published in one or more statewide or regional newspapers that
22 provide reasonable notice throughout this state. If the multiple
23 plant permit for existing facilities will be effective for only a
24 part of this state, the notice shall be published in a newspaper of
25 general circulation in the area to be affected. The commission by
26 rule may require that additional notice be given.

27 SECTION 8B.19. The heading to Section 382.056, Health and

1 Safety Code, is amended to read as follows:

2 Sec. 382.056. NOTICE AND ~~[OF INTENT TO OBTAIN PERMIT OR~~
3 ~~PERMIT REVIEW,]~~ HEARING.

4 SECTION 8B.20. Section 382.056, Health and Safety Code, is
5 amended by amending Subsections (a), (o), (q), and (r), and adding
6 Subsections (a-1) through (a-3) to read as follows:

7 (a) An ~~[Except as provided by Section 382.0518(h), an]~~
8 applicant for a permit or permit amendment under Section 382.0518
9 or a permit renewal review under Section 382.055 shall publish
10 notice of a preliminary decision on ~~[intent to obtain]~~ the permit,
11 permit amendment, or permit review and provide an opportunity for
12 contested case hearing as provided by Subchapter M, Chapter 5,
13 Water Code ~~[not later than the 30th day after the date the~~
14 ~~commission determines the application to be administratively~~
15 ~~complete. The commission by rule shall require an applicant for a~~
16 ~~federal operating permit under Section 382.054 to publish notice of~~
17 ~~intent to obtain a permit, permit amendment, or permit review~~
18 ~~consistent with federal requirements and with the requirements of~~
19 ~~Subsection (b). The applicant shall publish the notice at least~~
20 ~~once in a newspaper of general circulation in the municipality in~~
21 ~~which the facility or federal source is located or is proposed to be~~
22 ~~located or in the municipality nearest to the location or proposed~~
23 ~~location of the facility or federal source. If the elementary or~~
24 ~~middle school nearest to the facility or proposed facility provides~~
25 ~~a bilingual education program as required by Subchapter B, Chapter~~
26 ~~29, Education Code, the applicant shall also publish the notice at~~
27 ~~least once in an additional publication of general circulation in~~

~~the municipality or county in which the facility is located or proposed to be located that is published in the language taught in the bilingual education program. This requirement is waived if such a publication does not exist or if the publisher refuses to publish the notice. The commission by rule shall prescribe the form and content of the notice and when notice must be published. The commission may require publication of additional notice. The commission by rule shall prescribe alternative procedures for publication of the notice in a newspaper if the applicant is a small business stationary source as defined by Section 382.0365 and will not have a significant effect on air quality. The alternative procedures must be cost-effective while ensuring adequate notice. Notice required to be published under this section shall only be required to be published in the United States].~~

(a-1) An amendment, modification, or renewal that would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted is subject to notice but the commission may not hold a contested case hearing on the amendment, modification, or renewal as provided by this section except as provided by Subsection (e).

(a-2) An application for a permit amendment under this section is not subject to notice and opportunity for a contested case hearing if the total emissions increase from all facilities authorized under the amended permit will meet the de minimus criteria established by commission rule and the emissions will not change in character. An application for a permit amendment for a facility affected by a rule adopted under Section 382.020 is not

1 subject to notice and opportunity for a contested case hearing if
2 the total emissions increase from all facilities authorized under
3 the permit amendment is not significant and will not change in
4 character. A finding under this subsection that a total emissions
5 increase is not significant must be made in the same manner as a
6 finding made under Section 382.05196.

7 (a-3) The following types of applications for a permit,
8 permit amendment, or permit renewal are not subject to the
9 opportunity for a contested case hearing and are subject to notice
10 and opportunity for a nonadjudicative hearing under Subchapter S,
11 Chapter 5, Water Code:

- 12 (1) concrete batch plants;
- 13 (2) rock crushing facilities;
- 14 (3) concrete crushing facilities;
- 15 (4) hot mix asphalt plants;
- 16 (5) cotton gins;
- 17 (6) grain handling facilities; and
- 18 (7) animal crematory facilities.

19 (o) Notwithstanding other provisions of this chapter, an
20 application for [the commission may hold a hearing on] a permit
21 amendment, modification, or renewal is subject to the opportunity
22 for a contested case hearing if it [if the commission determines
23 that the application] involves a facility for which the applicant's
24 compliance history is unacceptable to the commission based on
25 violations constituting a recurring pattern of conduct that
26 demonstrates a consistent disregard for the regulatory process,
27 including a failure to make a timely and substantial attempt to

1 correct the violations [~~in the lowest classification under Sections~~
2 ~~5.753 and 5.754, Water Code, and rules adopted and procedures~~
3 ~~developed under those sections~~].

4 (q) The commission [~~department~~] shall establish rules to
5 ensure that a permit applicant complies with the notice requirement
6 under Subchapter M, Chapter 5, Water Code [~~Subsection (a)~~].

7 (r) An application is not subject to notice and opportunity
8 for a contested case hearing if the application involves [~~This~~
9 ~~section does not apply to~~]:

10 (1) the relocation or change of location of a portable
11 facility to a site where an authorized portable [~~a~~] facility
12 [~~permitted by the commission is located if no portable facility~~]
13 has been located at the proposed site at any time during the
14 previous two years; or

15 (2) a portable facility located temporarily in the
16 right-of-way, or contiguous to the right-of-way, of a public works
17 project.

18 SECTION 8B.21. The heading to Section 382.0561, Health and
19 Safety Code, is amended to read as follows:

20 Sec. 382.0561. FEDERAL OPERATING PERMIT: NOTICE AND
21 HEARING.

22 SECTION 8B.22. Section 382.0561(f), Health and Safety Code,
23 is amended to read as follows:

24 (f) Notice of the public comment period and opportunity for
25 a hearing under this section shall be published in accordance with
26 commission rules and include:

27 (1) a description of the location or proposed location

1 of the facility or federal source;

2 (2) a description of the manner in which the
3 commission may be contacted for further information, including a
4 telephone number;

5 (3) a statement that a person who may be affected by
6 emissions of air contaminants from the facility, proposed facility,
7 or federal source, is entitled to request a nonadjudicative hearing
8 from the commission; and

9 (4) any other information the commission by rule
10 requires [~~Section 382.056~~].

11 SECTION 8B.23. Section 382.065, Health and Safety Code, as
12 added by Chapter 965, Acts of the 77th Legislature, Regular
13 Session, 2001, is amended by adding Subsection (c) to read as
14 follows:

15 (c) For the purposes of applying the restriction regarding
16 the distance between a concrete crushing facility and a building
17 under Subsection (a), the commission shall determine the location
18 of the building as of the date the permit application is filed with
19 the commission.

20 SECTION 8B.24. The following laws are repealed:

- 21 (1) Section 5.552, Water Code;
22 (2) Sections 5.553(b), (c), and (d), Water Code;
23 (3) Sections 5.556(d) and (e), Water Code; and
24 (4) Section 5.557, Water Code.

25 SECTION 8B.25. Sections 361.0791 and 361.088(d), Health and
26 Safety Code, are repealed.

27 SECTION 8B.26. The following laws are repealed:

(1) Sections 2003.047 and 2003.048, Government Code;
and

(2) Sections 361.534(b), 382.0518(h) and (i),
382.05191(b) and (c), 382.05197(b) and (c), 382.056(b)-(n) and (p),
and 382.058, Health and Safety Code.

ARTICLE 8C. COMPLIANCE HISTORY

SECTION 8C.01. Subchapter Q, Chapter 5, Water Code, is
repealed.

SECTION 8C.02. Section 361.0215(c), Health and Safety Code,
is repealed.

SECTION 8C.03. Section 27.051(h), Water Code, as added by
Chapter 965, Acts of the 77th Legislature, Regular Session, 2001,
is repealed.

SECTION 8C.04. Section 26.0281, Water Code, is amended to
read as follows:

Sec. 26.0281. CONSIDERATION OF PAST PERFORMANCE AND
COMPLIANCE [~~HISTORY~~]. In considering the issuance, amendment, or
renewal of a permit to discharge effluent comprised primarily of
sewage or municipal waste, the commission shall consider any
adjudicated decision or [the] compliance proceeding addressing
past performance and compliance [history] of the applicant and its
operator with the laws of this state governing waste discharge,
waste treatment, or waste disposal facilities and with the terms of
any permit or order issued by the commission [~~under the method for~~
~~evaluating compliance history developed by the commission under~~
~~Section 5.754~~]. In considering an applicant's compliance history
under this subsection, the commission shall consider as evidence of

1 compliance information regarding the applicant's implementation of
2 an environmental management system at the facility for which the
3 permit, permit amendment, or permit renewal is sought. In this
4 section, "environmental management system" has the meaning
5 assigned by Section 5.127.

6 SECTION 8C.05. Section 26.040(h), Water Code, is amended to
7 read as follows:

8 (h) Notwithstanding other provisions of this chapter, the
9 commission, after hearing, shall deny or suspend a discharger's
10 authority to discharge under a general permit if the commission
11 determines that the discharger operates any facility for which the
12 discharger's compliance history contains violations constituting a
13 recurring pattern of egregious conduct that demonstrates a
14 consistent disregard for the regulatory process, including a
15 failure to make a timely and substantial attempt to correct the
16 violations [~~is in the lowest classification under Sections 5.753~~
17 ~~and 5.754 and rules adopted and procedures developed under those~~
18 ~~sections~~]. A hearing under this subsection is not subject to
19 Chapter 2001, Government Code.

20 SECTION 8C.06. Section 27.051(d), Water Code, and Section
21 27.051(e), Water Code, as amended by Chapter 965, Acts of the 77th
22 Legislature, Regular Session, 2001, are amended to read as follows:

23 (d) The commission, in determining if the use or
24 installation of an injection well is in the public interest under
25 Subsection (a)(1), shall consider, but shall not be limited to the
26 consideration of:

27 (1) compliance history of the applicant and related

1 entities ~~[under the method for evaluating compliance history~~
2 ~~developed by the commission under Section 5.754 and]~~ in accordance
3 with the provisions of Subsection (e);

4 (2) whether there is a practical, economic, and
5 feasible alternative to an injection well reasonably available; and

6 (3) if the injection well will be used for the disposal
7 of hazardous waste, whether the applicant will maintain sufficient
8 public liability insurance for bodily injury and property damage to
9 third parties that is caused by sudden and non-sudden accidents or
10 will otherwise demonstrate financial responsibility in a manner
11 adopted by the commission in lieu of public liability insurance. A
12 liability insurance policy which satisfies the policy limits
13 required by the hazardous waste management regulations of the
14 commission for the applicant's proposed pre-injection facilities
15 shall be deemed "sufficient" under this subdivision if the policy:

16 (A) covers the injection well; and

17 (B) is issued by a company that is authorized to
18 do business and to write that kind of insurance in this state and is
19 solvent and not currently under supervision or in conservatorship
20 or receivership in this state or any other state.

21 (e) The ~~[Consistent with Sections 5.753 and 5.754 and rules~~
22 ~~adopted and procedures developed under those sections, the]~~
23 commission shall establish a procedure by rule for its preparation
24 of compliance summaries relating to the history of compliance and
25 noncompliance by the applicant with the rules adopted or orders or
26 permits issued by the commission under this chapter for any
27 injection well for which a permit has been issued under this chapter

1 ~~[for preparing summaries of the applicant's compliance history]~~.
 2 The compliance summaries shall be made available to the applicant
 3 and any interested person after the commission has completed its
 4 technical review of the permit application and prior to the
 5 promulgation of the public notice relating to the issuance of the
 6 permit. Evidence of compliance or noncompliance by an applicant
 7 for an injection well for the disposal of hazardous waste with the
 8 rules adopted or orders or permits issued by the commission under
 9 this chapter may be offered by any party at a hearing on the
 10 applicant's application and admitted into evidence subject to
 11 applicable rules of evidence. ~~[In accordance with this subsection~~
 12 ~~and Sections 5.753 and 5.754 and rules adopted and procedures~~
 13 ~~developed under those sections, evidence of the compliance history~~
 14 ~~of an applicant for an injection well may be offered at a hearing on~~
 15 ~~the application and may be admitted into evidence, subject to the~~
 16 ~~rules of evidence.]~~ All evidence admitted, including compliance
 17 history, shall be considered by the commission in determining
 18 whether to issue, amend, extend or renew a permit.

19 SECTION 8C.07. Sections 361.084(a) and (c), Health and
 20 Safety Code, are amended to read as follows:

21 (a) The commission by rule shall establish a procedure to
 22 prepare compliance summaries relating to the applicant's solid
 23 waste management activities ~~[in accordance with the method for~~
 24 ~~evaluating compliance history developed by the commission under~~
 25 ~~Section 5.754, Water Code]~~. A compliance summary shall include as
 26 evidence of compliance information regarding the applicant's
 27 implementation of an environmental management system at the

1 facility for which the authorization is sought. In this subsection,
2 "environmental management system" has the meaning assigned by
3 Section 5.127, Water Code.

4 (c) Evidence of compliance or noncompliance by an applicant
5 for a solid waste management facility permit with agency rules,
6 permits, other orders, or evidence of a final determination of
7 noncompliance with federal statutes or statutes of any state in the
8 preceding five years concerning solid waste management may be:

9 (1) offered by a party at a hearing concerning the
10 application; and

11 (2) admitted into evidence subject to applicable rules
12 of evidence.

13 SECTION 8C.08. Section 361.088(f), Health and Safety Code,
14 is amended to read as follows:

15 (f) Notwithstanding Subsection (e), if the commission
16 determines that an applicant's compliance history for the preceding
17 five years [~~under the method for evaluating compliance history~~
18 ~~developed by the commission under Section 5.754, Water Code,~~]
19 raises an issue regarding the applicant's ability to comply with a
20 material term of its permit, the commission shall provide an
21 opportunity to request a contested case hearing.

22 SECTION 8C.09. Sections 361.089(a), (e), and (f), Health
23 and Safety Code, are amended to read as follows:

24 (a) The commission may, for good cause, deny or amend a
25 permit it issues or has authority to issue for reasons pertaining to
26 public health, air or water pollution, or land use, or for a
27 violation of this chapter or other applicable laws or rules

1 controlling the management of solid waste ~~[having a compliance~~
2 ~~history that is in the lowest classification under Sections 5.753~~
3 ~~and 5.754, Water Code, and rules adopted and procedures developed~~
4 ~~under those sections]~~.

5 (e) The commission may deny an original or renewal permit if
6 it is found, after notice and hearing, that:

7 (1) the applicant or permit holder has a record of
8 environmental violations in the preceding five years at the
9 permitted site ~~[compliance history that is in the lowest~~
10 ~~classification under Sections 5.753 and 5.754, Water Code, and~~
11 ~~rules adopted and procedures developed under those sections]~~;

12 (2) the permit holder or applicant made a false or
13 misleading statement in connection with an original or renewal
14 application, either in the formal application or in any other
15 written instrument relating to the application submitted to the
16 commission, its officers, or its employees;

17 (3) the permit holder or applicant is indebted to the
18 state for fees, payment of penalties, or taxes imposed by this title
19 or by a rule of the commission; ~~[or]~~

20 (4) the permit holder or applicant is unable to ensure
21 that the management of the hazardous waste management facility
22 conforms or will conform to this title and the rules of the
23 commission; or

24 (5) the applicant has a record of environmental
25 violations in the preceding five years at any site owned, operated,
26 or controlled by the applicant.

27 (f) Before denying a permit under this section, the

commission must find:

(1) that a violation or violations are significant and that the permit holder or applicant has not made a substantial attempt to correct the violations [~~the applicant or permit holder has a compliance history that is in the lowest classification under Sections 5.753 and 5.754, Water Code, and rules adopted and procedures developed under those sections~~]; or

(2) that the permit holder or applicant is indebted to the state for fees, payment of penalties, or taxes imposed by this title or by a rule of the commission.

SECTION 8C.10. Section 382.0518(c), Health and Safety Code, is amended to read as follows:

(c) In considering the issuance, amendment, or renewal of a permit, the commission may consider any adjudicated decision or compliance proceeding within the five years before the date on which the application was filed that addressed the applicant's past performance and compliance with the laws of this state, another state, or the United States governing air contaminants or with the terms of any permit or order issued by the commission [~~the applicant's compliance history in accordance with the method for evaluating compliance history developed by the commission under Section 5.754, Water Code~~]. In considering an applicant's compliance history under this subsection, the commission shall consider as evidence of compliance information regarding the applicant's implementation of an environmental management system at the facility for which the permit, permit amendment, or permit renewal is sought. In this subsection, "environmental management

1 system" has the meaning assigned by Section 5.127, Water Code.

2 SECTION 8C.11. Section 382.055(d), Health and Safety Code,
3 is amended to read as follows:

4 (d) In determining whether and under which conditions a
5 preconstruction permit should be renewed, the commission shall
6 consider, at a minimum:

7 (1) whether the ~~[performance of the owner or operator~~
8 ~~of the]~~ facility is or has been in substantial compliance with this
9 chapter and the terms of the existing permit ~~[according to the~~
10 ~~method developed by the commission under Section 5.754, Water~~
11 ~~Code]~~; and

12 (2) the condition and effectiveness of existing
13 emission control equipment and practices.

14 SECTION 8C.12. Section 382.056(o), Health and Safety Code,
15 is amended to read as follows:

16 (o) Notwithstanding other provisions of this chapter, the
17 commission may hold a hearing on a permit amendment, modification,
18 or renewal if the commission determines that the application
19 involves a facility for which the applicant's compliance history is
20 unacceptable to the commission based on violations constituting a
21 recurring pattern of conduct that demonstrates a consistent
22 disregard for the regulatory process, including a failure to make a
23 timely and substantial attempt to correct the violations ~~[in the~~
24 ~~lowest classification under Sections 5.753 and 5.754, Water Code,~~
25 ~~and rules adopted and procedures developed under those sections].~~

26 SECTION 8C.13. Section 401.110, Health and Safety Code, is
27 amended to read as follows:

1 Sec. 401.110. DETERMINATION ON LICENSE. In making a
2 determination whether to grant, deny, amend, renew, revoke,
3 suspend, or restrict a license or registration, the commission may
4 consider an applicant's or license holder's technical competence,
5 financial qualifications, and the applicant's or license holder's
6 record in areas involving radiation [~~compliance history under the~~
7 ~~method for evaluation of compliance history developed by the~~
8 ~~commission under Section 5.754, Water Code~~].

9 SECTION 8C.14. Section 401.112(a), Health and Safety Code,
10 is amended to read as follows:

11 (a) The department or commission, within its jurisdiction,
12 in making a licensing decision on a specific license application to
13 process or dispose of low-level radioactive waste from other
14 persons, shall consider:

15 (1) site suitability, geological, hydrological, and
16 meteorological factors, and natural hazards;

17 (2) compatibility with present uses of land near the
18 site;

19 (3) socioeconomic effects on surrounding communities
20 of operation of the licensed activity and of associated
21 transportation of low-level radioactive waste;

22 (4) the need for and alternatives to the proposed
23 activity, including an alternative siting analysis prepared by the
24 applicant;

25 (5) the applicant's qualifications, including
26 financial and technical qualifications and past operating
27 practices [~~and compliance history under the method for evaluation~~

1 ~~of compliance history developed by the commission under Section~~
2 ~~5.754, Water Code];~~

3 (6) background monitoring plans for the proposed site;

4 (7) suitability of facilities associated with the
5 proposed activities;

6 (8) chemical, radiological, and biological
7 characteristics of the low-level radioactive waste and waste
8 classification under Section 401.053;

9 (9) adequate insurance of the applicant to cover
10 potential injury to any property or person, including potential
11 injury from risks relating to transportation;

12 (10) training programs for the applicant's employees;

13 (11) a monitoring, record-keeping, and reporting
14 program;

15 (12) spill detection and cleanup plans for the
16 licensed site and related to associated transportation of low-level
17 radioactive waste;

18 (13) decommissioning and postclosure care plans;

19 (14) security plans;

20 (15) worker monitoring and protection plans;

21 (16) emergency plans; and

22 (17) a monitoring program for applicants that includes
23 prelicense and postlicense monitoring of background radioactive
24 and chemical characteristics of the soils, groundwater, and
25 vegetation.

26 [ARTICLES 8D and 8E. RESERVED]

27 ARTICLE 8F. CERTAIN FEES RELATED TO CLEAN AIR ACT

1 SECTION 8F.01. Section 382.0622, Health and Safety Code, is
2 amended by amending Subsection (b) and adding Subsections (b-1),
3 (b-2), and (b-3) to read as follows:

4 (b) Except as provided by Subsection (b-1), Clean Air Act
5 fees shall be deposited in the state treasury to the credit of the
6 clean air account and shall be used to safeguard the air resources
7 of the state.

8 **(b-1) Fees collected under Section 382.0621(a) on or after**
9 **September 1, 2003, shall be deposited in the state treasury to the**
10 **credit of the operating permit fees account. Fees collected under**
11 **Section 382.0621(a) may not be commingled with any fees in the clean**
12 **air account or with any other money in the state treasury.**

13 **(b-2) Money in the operating permit fees account**
14 **established under Subsection (b-1) may be appropriated to the**
15 **commission only to cover the costs of developing and administering**
16 **the federal permit programs under Title IV or V of the federal Clean**
17 **Air Act (42 U.S.C. Section 7651 et seq. and Section 7661 et seq.).**

18 **(b-3) Section 403.095, Government Code, does not apply to**
19 **the operating permit fees account established under Subsection**
20 **(b-1), and any balance remaining in the operating permit fees**
21 **account at the end of a fiscal year shall be left in the account and**
22 **used in the next or subsequent fiscal years only for the purposes**
23 **stated in Subsection (b-2).**

24 SECTION 8F.02. Not later than December 1, 2003, the Texas
25 Commission on Environmental Quality shall adopt any rules required
26 for the implementation of this article.

27 ARTICLE 8G. OIL SPILL PREVENTION AND RESPONSE

SECTION 8G.01. Section 40.002(c), Natural Resources Code, is amended to read as follows:

(c) The legislature intends by this chapter to exercise the police power of the state to protect its coastal waters and adjacent shorelines by conferring upon the Commissioner of the General Land Office the power to:

(1) prevent spills and discharges of oil by requiring and monitoring preventive measures and response planning;

(2) provide for prompt response to abate and contain spills and discharges of oil and ensure the removal and cleanup of pollution from such spills and discharges;

~~[(3) provide for development of a state coastal discharge contingency plan through planning and coordination with the Texas Natural Resource Conservation Commission to protect coastal waters from all types of spills and discharges.]~~ and

(3) [(4)] administer a fund to provide for funding these activities and to guarantee the prompt payment of certain reasonable claims resulting from spills and discharges of oil.

SECTION 8G.02. Sections 40.003(13), (17), and (22), Natural Resources Code, are amended to read as follows:

(13) "Hazardous substance" means any substance, except oil, designated as hazardous by the Environmental Protection Agency pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.) and designated by the Texas ~~[Natural Resource Conservation]~~ Commission on Environmental Quality.

(17) "Oil" means oil of any kind or in any form,

1 including but not limited to crude oil, petroleum, fuel oil,
2 sludge, oil refuse, and oil mixed with wastes other than dredged
3 spoil, but does not include petroleum, including crude oil or any
4 fraction thereof, which is specifically listed or designated as a
5 hazardous substance under Subparagraphs (A) through (F) of Section
6 101(14) of the Comprehensive Environmental Response, Compensation,
7 and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.) and which is
8 subject to the provisions of that Act, and which is so designated by
9 the Texas [~~Natural Resource Conservation~~] Commission on
10 Environmental Quality.

11 (22) "Response costs" means:

12 (A) with respect to an actual or threatened
13 discharge of oil, all costs incurred in an attempt to prevent,
14 abate, contain, and remove pollution from the discharge, including
15 costs of removing vessels or structures under this chapter, and
16 costs of any reasonable measures to prevent or limit damage to the
17 public health, safety, or welfare, public or private property, or
18 natural resources; or

19 (B) with respect to an actual or threatened
20 discharge of a hazardous substance, only costs incurred to
21 supplement the response operations of the Texas [~~Natural Resource~~
22 ~~Conservation~~] Commission on Environmental Quality.

23 SECTION 8G.03. Section 40.005, Natural Resources Code, is
24 amended to read as follows:

25 Sec. 40.005. ADMINISTRATION OF HAZARDOUS SUBSTANCE SPILL
26 RESPONSE AND CLEANUP. The General Land Office, under the direction
27 and control of the commissioner, is the state's lead agency for

1 initiating response to all actual or threatened unauthorized
2 discharges of oil. In the event of an unauthorized discharge of a
3 hazardous substance, nothing in this chapter shall preclude the
4 Texas [~~Natural Resource Conservation~~] Commission on Environmental
5 Quality from at the earliest time practicable assuming response and
6 cleanup duties pursuant to Subchapter G, Chapter 26, Water Code[
7 ~~and the state coastal discharge contingency plan~~].

8 SECTION 8G.04. Section 40.052, Natural Resources Code, is
9 amended to read as follows:

10 Sec. 40.052. HAZARDOUS SUBSTANCES DISCHARGES. If the
11 unauthorized discharge involves predominantly a hazardous
12 substance, the Texas [~~Natural Resource Conservation~~] Commission on
13 Environmental Quality shall carry out responsibility for
14 abatement, containment, removal, and cleanup of the hazardous
15 substances discharged, pursuant to Subchapter G, Chapter 26, Water
16 Code[, ~~and to the state coastal discharge contingency plan~~].

17 SECTION 8G.05. Section 40.101(c), Natural Resources Code,
18 is amended to read as follows:

19 (c) In order to prevent duplication of effort among state
20 agencies, the commissioner shall utilize the expertise of the Texas
21 [~~Natural Resource Conservation~~] Commission on Environmental
22 Quality on technical and scientific actions, including but not
23 limited to:

- 24 (1) taking samples in the spill area;
- 25 (2) monitoring meteorological conditions that may
26 affect spill response operations; and
- 27 (3) regulating disposal of spilled material.

1 SECTION 8G.06. Section 40.103(b), Natural Resources Code,
2 is amended to read as follows:

3 (b) Any person or discharge cleanup organization that
4 renders assistance in abating, containing, or removing pollution
5 from any unauthorized discharge of oil may receive compensation
6 from the fund for response costs, provided the commissioner
7 approves compensation prior to the assistance being rendered.
8 ~~[Prior approval for compensation may be provided for in the state~~
9 ~~coastal discharge contingency plan.]~~ The commissioner, on petition
10 and for good cause shown, may waive the prior approval
11 prerequisite.

12 SECTION 8G.07. Section 40.104, Natural Resources Code, is
13 amended to read as follows:

14 Sec. 40.104. QUALIFIED IMMUNITY FOR RESPONSE ACTIONS. (a)
15 No action taken by any person or discharge cleanup organization to
16 abate, contain, or remove pollution from an unauthorized discharge
17 of oil, whether such action is taken voluntarily, or pursuant to the
18 national contingency plan ~~[or state coastal discharge contingency~~
19 ~~plan]~~, or pursuant to a discharge response plan required under this
20 chapter, or pursuant to the request of an authorized federal or
21 state official, or pursuant to the request of the responsible
22 person, shall be construed as an admission of responsibility or
23 liability for the discharge.

24 (b) No person or discharge cleanup organization that
25 voluntarily, or pursuant to the national contingency plan ~~[or the~~
26 ~~state coastal discharge contingency plan]~~, or pursuant to any
27 discharge response plan required under this chapter, or pursuant to

1 the request of an authorized federal or state official, or pursuant
2 to the request of the responsible person, renders assistance or
3 advice in abating, containing, or removing pollution from an
4 unauthorized discharge of oil is liable for response costs,
5 damages, or civil penalties resulting from acts or omissions
6 committed in rendering such assistance or advice, except for acts
7 or omissions of gross negligence or wilful misconduct.

8 SECTION 8G.08. Section 40.107(a)(1), Natural Resources
9 Code, is amended to read as follows:

10 (1) In any action to recover natural resources
11 damages, the amount of damages established by the commissioner in
12 conjunction with the trustees~~[, according to the procedures and~~
13 ~~plans contained in the state coastal discharge contingency plan,]~~
14 shall create a rebuttable presumption of the amount of such
15 damages.

16 SECTION 8G.09. Sections 40.107(c)(1) and (4), Natural
17 Resources Code, are amended to read as follows:

18 (1) The commissioner, in conjunction with the
19 trustees, shall develop an inventory that identifies and catalogs
20 the physical locations, the seasonal variations in location, and
21 the current condition of natural resources; provides for data
22 collection related to coastal processes; and identifies the
23 recreational and commercial use areas that are most likely to
24 suffer injury from an unauthorized discharge of oil. The inventory
25 shall be completed by September 1, 1995~~[, and shall be incorporated~~
26 ~~into the state coastal discharge contingency plan after public~~
27 ~~review and comment].~~

1 (4) The commissioner shall adopt administrative
2 procedures and protocols for the assessment of natural resource
3 damages from an unauthorized discharge of oil. As developed
4 through negotiated rulemaking with the trustees and other
5 interested parties, the procedures and protocols shall require the
6 trustees to assess natural resource damages by considering the
7 unique characteristics of the spill incident and the location of
8 the natural resources affected. These procedures and protocols
9 shall be adopted by rule, by the trustee agencies after
10 negotiation, notice, and public comment, by June 1, 1994~~[, and~~
11 ~~shall be incorporated into the state coastal discharge contingency~~
12 ~~plan]~~.

13 SECTION 8G.10. Section 40.116, Natural Resources Code, is
14 amended to read as follows:

15 Sec. 40.116. AUDITS, INSPECTIONS, and DRILLS. The
16 commissioner may subject a vessel subject to Section 40.114 of this
17 code~~[, as a condition to being granted entry into any port in this~~
18 ~~state]~~ or a terminal facility to an announced or unannounced
19 audit, inspection, or drill to determine the discharge prevention
20 and response capabilities of the terminal facility or vessels. Any
21 vessel drill conducted by the commissioner shall be in cooperation
22 and conjunction with the United States Coast Guard, and the
23 commissioner's participation may not interfere with the schedule of
24 the vessel.

25 SECTION 8G.11. Section 40.151(b), Natural Resources Code,
26 is amended to read as follows:

27 (b) The coastal protection fund is established in the state

1 treasury to be used by the commissioner as a nonlapsing revolving
2 fund only for carrying out the purposes of this chapter and of
3 Subchapter H, Chapter 33. To this fund shall be credited all fees,
4 penalties, judgments, reimbursements, interest or income on the
5 fund, and charges provided for in this chapter and the fee revenues
6 levied, collected, and credited pursuant to this chapter. The fund
7 shall not exceed \$50 million.

8 SECTION 8G.12. Section 40.152(a), Natural Resources Code,
9 is amended to read as follows:

10 (a) Money in the fund may be disbursed for the following
11 purposes and no others:

12 (1) administrative expenses, personnel and training
13 expenses, and equipment maintenance and operating costs related to
14 implementation and enforcement of this chapter;

15 (2) response costs related to abatement and
16 containment of actual or threatened unauthorized discharges of oil
17 incidental to unauthorized discharges of hazardous substances;

18 (3) response costs and damages related to actual or
19 threatened unauthorized discharges of oil;

20 (4) assessment, restoration, rehabilitation, or
21 replacement of or mitigation of damage to natural resources damaged
22 by an unauthorized discharge of oil;

23 (5) in an amount not to exceed \$50,000 annually, the
24 small spill education program;

25 (6) in an amount not to exceed \$1,250,000 annually,
26 interagency contracts under Section 40.302;

27 (7) the purchase of response equipment under Section

40.105 within two years of the effective date of this chapter, in an amount not to exceed \$4 million; thereafter, for the purchase of equipment to replace equipment that is worn or obsolete;

~~(8) [an inventory under Section 40.107, to be completed by September 1, 1995, in an amount not to exceed \$6 million,~~

~~(9)]~~ other costs and damages authorized by this chapter; ~~and~~

(9) ~~(10)]~~ in an amount not to exceed the interest accruing to the fund annually, erosion response projects under Subchapter H, Chapter 33; and

(10) in conjunction with the Railroad Commission of Texas, costs related to the plugging of abandoned or orphaned oil wells located on state-owned submerged lands.

SECTION 8G.13. Section 40.254(g)(3), Natural Resources Code, is amended to read as follows:

~~(3) [A person who fails to comply with Subdivision (2) of this subsection waives the right to judicial review.]~~ On failure of the person to comply with the order or file a petition for judicial review ~~[Subdivision (2) of this subsection]~~, the commissioner may refer the matter to the attorney general for collection and enforcement.

SECTION 8G.14. Section 40.254(h)(1), Natural Resources Code, is amended to read as follows:

(1) If a penalty is reduced or not assessed, the commissioner shall~~+~~

~~(A)]~~ remit to the person charged the appropriate

1 amount of any penalty payment plus accrued interest [~~, or~~
2 [~~(B) execute a release of the bond if a~~
3 ~~supersedeas bond has been posted~~].

4 SECTION 8G.15. Sections 40.258(a)(1), (2), and (3), Natural
5 Resources Code, are amended to read as follows:

6 (1) The commissioner shall promulgate rules [~~and a~~
7 ~~state coastal discharge contingency plan~~] that, to the greatest
8 extent practicable, conform to the national contingency plan and
9 rules promulgated under federal law.

10 (2) The commissioner may impose requirements under
11 such rules [~~and the state coastal discharge contingency plan~~] that
12 are in addition to or vary materially from federal requirements if
13 the state interests served by the requirements substantially
14 outweigh the burdens imposed on those subject to the requirements.

15 (3) Any request for judicial review of any rule [~~or any~~
16 ~~provision of the state coastal discharge contingency plan based on~~
17 ~~Subdivision (1) or (2) of this subsection~~] must be filed in a
18 district court in Travis County within 90 days of the effective date
19 of the rule or plan challenged.

20 SECTION 8G.16. Sections 40.006, 40.053, 40.110(f), 40.115,
21 40.117(b), 40.151(e), 40.254(g)(2), and 40.303, Natural Resources
22 Code, are repealed.

23 [ARTICLE 8H. RESERVED]

24 ARTICLE 8I. REPORTS

25 SECTION 8I.01. Section 363.064(a), Health and Safety Code,
26 is amended to read as follows:

27 (a) A regional or local solid waste management plan must:

1 (1) include a description and an assessment of current
2 efforts in the geographic area covered by the plan to minimize
3 production of municipal solid waste, including sludge, and efforts
4 to reuse or recycle waste;

5 (2) identify additional opportunities for waste
6 minimization and waste reuse or recycling;

7 (3) include a description and assessment of existing
8 or proposed community programs for the collection of household
9 hazardous waste;

10 (4) make recommendations for encouraging and
11 achieving a greater degree of waste minimization and waste reuse or
12 recycling in the geographic area covered by the plan;

13 (5) encourage cooperative efforts between local
14 governments in the siting of landfills for the disposal of solid
15 waste;

16 (6) consider the need to transport waste between
17 municipalities, from a municipality to an area in the jurisdiction
18 of a county, or between counties, particularly if a technically
19 suitable site for a landfill does not exist in a particular area;

20 (7) allow a local government to justify the need for a
21 landfill in its jurisdiction to dispose of the solid waste
22 generated in the jurisdiction of another local government that does
23 not have a technically suitable site for a landfill in its
24 jurisdiction;

25 (8) establish recycling rate goals appropriate to the
26 area covered by the plan;

27 (9) recommend composting programs for yard waste and

1 related organic wastes that may include:

2 (A) creation and use of community composting
3 centers;

4 (B) adoption of the "Don't Bag It" program for
5 lawn clippings developed by the Texas Agricultural Extension
6 Service; and

7 (C) development and promotion of education
8 programs on home composting, community composting, and the
9 separation of yard waste for use as mulch;

10 (10) include an inventory of municipal solid waste
11 landfill units, including:

12 (A) landfill units no longer in operation;

13 (B) the exact boundaries of each former landfill
14 unit or, if the exact boundaries are not known, the best
15 approximation of each unit's boundaries;

16 (C) a map showing the approximate boundaries of
17 each former landfill unit, if the exact boundaries are not known;

18 (D) the current owners of the land on which the
19 former landfill units were located; and

20 (E) the current use of the land;

21 (11) assess the need for new waste disposal capacity;

22 and

23 (12) include a public education program[, and

24 ~~[(13) include waste reduction in accordance with the~~
25 ~~goal established under Section 361.0201(d), to the extent that~~
26 ~~funds are available].~~

27 SECTION 8I.02. The heading to Section 5.178, Water Code, is

amended to read as follows:

Sec. 5.178. ANNUAL REPORTS; BIENNIAL APPENDICES
~~[APPENDIXES]~~.

SECTION 8I.03. Section 5.178(b), Water Code, is amended to read as follows:

(b) The report due by December 1 of an even-numbered year shall include, in addition:

(1) the commission's recommendations for necessary and desirable legislation; and

(2) the following reports:

(A) the assessments and reports required by Section ~~[Sections]~~ 361.0219(c) ~~[, 361.0232, 361.510, 371.063, and 382.141]~~, Health and Safety Code;

(B) the reports required by Section 26.0135(d) ~~[of this code]~~ and Section 5.02, Chapter 133, Acts of the 69th Legislature, Regular Session, 1985; and

(C) a summary of the analyses and assessments required by Section 5.1773 ~~[of this code]~~.

SECTION 8I.04. (a) Sections 361.020, 361.0201, 361.0232, 361.0233, 361.0234, 361.040(d), 361.0871(c), 361.510, 371.063, 382.141, Health and Safety Code, are repealed.

(b) Section 5.178(c), Water Code, is repealed.

[ARTICLE 8J. RESERVED]

ARTICLE 8K. ALTERNATIVE FUELS AND VEHICLES

SECTION 8K.01. The following laws are repealed:

(1) Subchapter F, Chapter 382, Health and Safety Code;
and

(2) the following subchapters of the Transportation Code:

- (A) Subchapter G, Chapter 451;
- (B) Subchapter F, Chapter 452;
- (C) Subchapter F, Chapter 453; and
- (D) Subchapter E, Chapter 457.

SECTION 8K.02. Section 113.287(e), Natural Resources Code, is amended to read as follows:

(e) A state agency, county, municipality, school district, or mass transit authority or department is eligible to receive a loan, grant, or other disbursement under this subchapter to carry out an eligible conversion or infrastructure project regarding LPG or another environmentally beneficial fuel to comply with fuel requirements provided by or by rules adopted under:

(1) ~~[Subchapter F, Chapter 382, Health and Safety Code,~~

~~(2)]~~ Subchapter A, Chapter 2158, Government Code; or

(2) ~~(3)]~~ Subchapter C, Chapter 2171, Government Code~~;~~

~~(4) Subchapter G, Chapter 451, Transportation Code,~~

~~(5) Subchapter F, Chapter 452, Transportation Code,~~

~~or~~

~~(6) Subchapter F, Chapter 453, Transportation Code].~~

SECTION 8K.03. Section 2158.001, Government Code, is amended to read as follows:

Sec. 2158.001. DEFINITION. In this subchapter, "conventional gasoline" means any gasoline that does not meet

1 specifications set by a certification under Section 211(k) of the
2 federal Clean Air Act (42 U.S.C. Section 7545(k)), as amended [~~has~~
3 ~~the meaning assigned by Section 382.131, Health and Safety Code~~].

4 SECTION 8K.04. Section 1232.104(a), Government Code, is
5 amended to read as follows:

6 (a) If the authority determines that a project is
7 financially viable and sufficient revenue is or will be available,
8 the authority may issue and sell obligations the proceeds of which
9 shall be used for the financing of:

10 (1) the conversion of state agency vehicles and other
11 sources of substantial energy output to an alternative fuel under
12 Subchapter A, Chapter 2158;

13 (2) the construction, acquisition, or maintenance by
14 the commission of fueling stations supplying alternative fuels or
15 equipment enhancing the use of engine-driven technology to support
16 state agency vehicles and other energy applications that use an
17 alternative fuel;

18 (3) the conversion of school district motor vehicles
19 and other sources of substantial energy output to an alternative
20 fuel;

21 (4) the construction, acquisition, or maintenance by a
22 school district of fueling stations supplying alternative fuels or
23 equipment enhancing the use of engine-driven technology to support
24 school district motor vehicles and other energy applications that
25 use an alternative fuel;

26 (5) the conversion of local mass transit authority or
27 department motor vehicles and other sources of substantial energy

1 output to an alternative fuel [~~under Chapters 451, 452, and 453,~~
2 ~~Transportation Code~~];

3 (6) the construction, acquisition, or maintenance of
4 fueling stations supplying alternative fuels or equipment
5 enhancing the use of engine-driven technology by a local mass
6 transit authority or department to support transit authority or
7 department vehicles and other energy applications that use an
8 alternative fuel;

9 (7) the conversion of motor vehicles and other sources
10 of substantial energy output of a local government[~~, as defined by~~
11 ~~Section 382.003, Health and Safety Code,~~] to an alternative fuel
12 [~~under Section 382.134, Health and Safety Code~~];

13 (8) the conversion of motor vehicles and other sources
14 of substantial energy output of a hospital district or authority, a
15 housing authority, or a district or authority created under Section
16 52, Article III, Texas Constitution, or Section 59, Article XVI,
17 Texas Constitution, to an alternative fuel;

18 (9) the construction, acquisition, or maintenance of
19 fueling stations supplying alternative fuels or equipment
20 enhancing the use of engine-driven technology to support motor
21 vehicles and other energy applications that use an alternative fuel
22 by a county, a municipality, or an entity described by Subdivision
23 (8); or

24 (10) a joint venture between the private sector and a
25 state agency or political subdivision that is required under law to
26 use an alternative fuel in the agency's or subdivision's vehicles or
27 other energy applications to:

1 (A) convert vehicles or other sources of
2 substantial energy output to an alternative fuel;

3 (B) develop fueling stations and resources for
4 the supply of alternative fuels and engine-driven applications;

5 (C) aid in the distribution of alternative fuels;
6 and

7 (D) engage in other projects to facilitate the
8 use of alternative fuels.

9 SECTION 8K.05. Section 5.178(b), Water Code, is amended to
10 read as follows:

11 (b) The report due by December 1 of an even-numbered year
12 shall include, in addition:

13 (1) the commission's recommendations for necessary and
14 desirable legislation; and

15 (2) the following reports:

16 (A) the assessments and reports required by
17 Sections 361.0219(c), 361.0232, 361.510, and 371.063[~~7~~~~—and~~
18 ~~382.141~~], Health and Safety Code;

19 (B) the reports required by Section 26.0135(d) of
20 this code and Section 5.02, Chapter 133, Acts of the 69th
21 Legislature, Regular Session, 1985; and

22 (C) a summary of the analyses and assessments
23 required by Section 5.1773 of this code.

24 SECTION 8K.06. Title 2, Agriculture Code, is amended by
25 adding Chapter 16 to read as follows:

26 CHAPTER 16. FUEL ETHANOL AND BIODIESEL PRODUCTION

27 Sec. 16.001. DEFINITIONS. In this chapter:

1 (1) "Account" means the fuel ethanol and biodiesel
2 production account.

3 (2) "ASTM" means the American Society for Testing and
4 Materials.

5 (3) "Biodiesel" means a monoalkyl ester that:
6 (A) is derived from vegetable oils, rendered
7 animal fats, or renewable lipids or a combination of those
8 ingredients; and

9 (B) meets the requirements of ASTM PS 121, the
10 provisional specification for biodiesel.

11 (4) "Fuel ethanol" means ethyl alcohol that:
12 (A) has a purity of at least 99 percent,
13 exclusive of added denaturants;

14 (B) has been denatured in conformity with a
15 method approved by the Bureau of Alcohol, Tobacco and Firearms of
16 the United States Department of the Treasury;

17 (C) meets the requirements of ASTM D4806, the
18 standard specification for ethanol used as a motor fuel; and

19 (D) is produced exclusively from agricultural
20 products or by-products or municipal solid waste.

21 (5) "Producer" means a person who operates a fuel
22 ethanol or biodiesel plant in this state.

23 Sec. 16.002. PLANT REGISTRATION. (a) To be eligible for a
24 grant for fuel ethanol or biodiesel produced in a plant, a producer
25 must apply to the department for the registration of the plant. A
26 producer may apply for the registration of more than one plant.

27 (b) An application for the registration of a plant must show

1 to the satisfaction of the department that:

2 (1) the plant is capable of producing fuel ethanol or
3 biodiesel;

4 (2) the producer has made a substantial investment of
5 resources in this state in connection with the plant; and

6 (3) the plant constitutes a permanent fixture in this
7 state.

8 (c) The department shall register each plant that qualifies
9 under this section.

10 Sec. 16.003. REPORTS. (a) On or before the fifth day of
11 each month, a producer shall report to the department on:

12 (1) the number of gallons of fuel ethanol or biodiesel
13 produced at each registered plant operated by the producer during
14 the preceding month;

15 (2) the number of gallons of fuel ethanol or biodiesel
16 imported into this state by the producer during the preceding
17 month;

18 (3) the number of gallons of fuel ethanol or biodiesel
19 sold or blended with motor fuels by the producer during the
20 preceding month; and

21 (4) the total value of agricultural products consumed
22 in each registered plant operated by the producer during the
23 preceding month.

24 (b) A producer who fails to file a report as required by this
25 section is ineligible to receive a grant for the period for which
26 the report is not filed.

27 Sec. 16.004. FUEL ETHANOL AND BIODIESEL PRODUCTION ACCOUNT.

1 (a) The fuel ethanol and biodiesel production account is an account
2 in the general revenue fund that may be appropriated only to the
3 department for the purposes of this chapter, including the making
4 of grants under this chapter.

5 (b) The account is composed of:

6 (1) fees collected under Section 16.005; and

7 (2) money transferred to the account under Subsection

8 (c).

9 (c) The comptroller shall transfer from the undedicated
10 portion of the general revenue fund to the account an amount of
11 money equal to 5.25 times the amount of the fees collected under
12 Section 16.005.

13 Sec. 16.005. FEE ON FUEL ETHANOL AND BIODIESEL PRODUCTION.

14 (a) The department shall impose a fee on each producer in an amount
15 equal to 3.2 cents for each gallon of fuel ethanol or biodiesel
16 produced in each registered plant operated by the producer.

17 (b) For each fiscal year, the department may not impose fees
18 on a producer for more than 18 million gallons of fuel ethanol or
19 biodiesel produced at any one registered plant.

20 (c) The department shall transfer the fees collected under
21 this section to the comptroller for deposit to the credit of the
22 account.

23 (d) The department may not impose fees on a producer for
24 fuel ethanol or biodiesel produced at a registered plant after the
25 10th anniversary of the date production from the plant begins.

26 Sec. 16.006. FUEL ETHANOL AND BIODIESEL GRANTS. (a) The
27 department shall make grants to producers as an incentive for the

1 development of the fuel ethanol and biodiesel industry and
2 agricultural production in this state.

3 (b) A producer is entitled to receive from the account 20
4 cents for each gallon of fuel ethanol or biodiesel produced in each
5 registered plant operated by the producer until the 10th
6 anniversary of the date production from the plant begins.

7 (c) For each fiscal year a producer may not receive grants
8 for more than 18 million gallons of fuel ethanol or biodiesel
9 produced at any one registered plant.

10 (d) The department by rule shall provide for the
11 distribution of grant funds under this chapter to producers. The
12 department shall make grants not less often than quarterly.

13 (e) If the department determines that the amount of money
14 credited to the account is not sufficient to distribute the full
15 amount of grant funds to eligible producers as provided by this
16 chapter for a fiscal year, the department shall proportionately
17 reduce the amount of each grant for each gallon of fuel ethanol or
18 biodiesel produced as necessary to continue the incentive program
19 during the remainder of the fiscal year.

20 SECTION 8K.07. Notwithstanding Section 16.004(c),
21 Agriculture Code, as added by this Act, the comptroller may not make
22 transfers from general revenue during the fiscal biennium ending
23 August 31, 2005.

24 PART 9. EDUCATION

25 ARTICLE 9A. SCHOOL BUS SAFETY STANDARDS

26 SECTION 9A.01. Section 34.002(a), Education Code, is
27 amended to read as follows:

1 (a) The Department of Public Safety, with the advice of the
2 [~~General Services Commission and the~~] Texas Education Agency, shall
3 establish safety standards for school buses used to transport
4 students in accordance with Section 34.003 [~~34.002, Education~~
5 ~~Code~~].

6 SECTION 9A.02. Sections 547.7015(a) and (b),
7 Transportation Code, are amended to read as follows:

8 (a) The department [~~General Services Commission, with the~~
9 ~~advice of the department,~~] shall adopt and enforce rules governing
10 the design, color, lighting and other equipment, construction, and
11 operation of a school bus for the transportation of schoolchildren
12 that is:

13 (1) owned and operated by a school district in this
14 state; or

15 (2) privately owned and operated under a contract with
16 a school district in this state.

17 (b) In adopting rules under this section, the department
18 [~~General Services Commission~~] shall emphasize:

19 (1) safety features; and

20 (2) long-range, maintenance-free factors.

21 SECTION 9A.03. Rules that were adopted under Section
22 547.7015, Transportation Code, before the effective date of this
23 Act and that are in effect on the effective date of this Act are
24 continued in effect as rules of the Department of Public Safety
25 until the rules are amended, repealed, or superseded by an action of
26 the department.

27 PART 10. INSURANCE

ARTICLE 10A. ABANDONMENT OF

PROCEEDS ON DEMUTUALIZATION

SECTION 10A.01. Section 72.101, Property Code, is amended by adding Subsection (c) to read as follows:

(c) The three-year period leading to a presumption of abandonment of proceeds from the demutualization of an insurance company begins on the earlier of the date of the last contact with the policyholder entitled to the proceeds or the date of the demutualization.

SECTION 10A.02. Section 74.301, Property Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Except as provided by Subsection (c) or (d), each holder who on June 30 holds property that is presumed abandoned under Chapter 72, 73, or 75 shall deliver the property to the comptroller on or before the following November 1 accompanied by the report required to be filed under Section 74.101.

(d) If the property subject to delivery under Subsection (a) is proceeds from the demutualization of an insurance company, the holder shall deliver the property and required report to the comptroller on or before the following August 1.

[PART 11. RESERVED]

[PART 12. RESERVED]

PART 13. AD VALOREM TAXATION

ARTICLE 13A. STATE ADMINISTRATION OF AD VALOREM TAXATION

SECTION 13A.01. Title 1, Tax Code, is amended by adding Subtitle G to read as follows:

1 SUBTITLE G. DETERMINATION OF SCHOOL DISTRICT PROPERTY VALUES

2 AND APPRAISAL DISTRICT ACCOUNTABILITY

3 CHAPTER 51. DETERMINATION OF SCHOOL DISTRICT PROPERTY VALUES AND

4 APPRAISAL DISTRICT ACCOUNTABILITY

5 SUBCHAPTER A. GENERAL PROVISIONS

6 Sec. 51.01. PURPOSE. It is the policy of this state to
7 ensure equity among taxpayers in the burden of school district
8 taxes and among school districts in the distribution of state
9 financial aid for public education. The purpose of this chapter is
10 to promote that policy by providing for uniformity in local
11 property appraisal practices and procedures and for determining
12 property values for schools in order to distribute state funding
13 equitably.

14 Sec. 51.02. DEFINITIONS. In this chapter:

15 (1) "Annual study" means a study conducted under
16 Section 51.21.

17 (2) "Eligible school district" means a school district
18 for which the commissioner has determined the following:

19 (A) in the most recent annual study, the local
20 value is invalid under Section 51.21(c) and does not exceed the
21 state value for the school district determined in the annual study;
22 and

23 (B) in the annual study for each of the two years
24 preceding the most recent annual study, the school district's local
25 value was valid.

26 (3) "Local value" means the market value of property
27 in a school district as determined by the appraisal district that

1 appraises property for the school district, less the total amounts
2 and values listed in Section 51.21(d) as determined by that
3 appraisal district.

4 (4) "Ratio study" means a study conducted under
5 Section 51.41.

6 (5) "State value" means the value of property in a
7 school district as determined in the annual study as provided by
8 Section 51.21(c).

9 [Sections 51.03-51.20 reserved for expansion]

10 SUBCHAPTER B. DETERMINATION OF SCHOOL DISTRICT PROPERTY VALUES

11 Sec. 51.21. DETERMINATION OF SCHOOL DISTRICT PROPERTY
12 VALUES. (a) The commissioner shall conduct an annual study to
13 determine the total taxable value of all property in each school
14 district. The annual study shall determine the total taxable value
15 of all property and of each category of property in each school
16 district. The annual study shall also determine the productivity
17 value of all land designated as agricultural, open-space, or timber
18 land under Chapter 23. The commissioner shall make appropriate
19 adjustments in the study to account for actions taken under Chapter
20 41, Education Code.

21 (b) In conducting the annual study, the commissioner shall
22 determine the taxable value of property in each school district:

23 (1) using, if appropriate, samples selected through
24 generally accepted sampling techniques;

25 (2) according to generally accepted standard
26 valuation, statistical compilation, and analysis techniques;

27 (3) ensuring that different levels of appraisal on

1 sold and unsold property do not adversely affect the accuracy of the
2 study; and

3 (4) using current technology and techniques in
4 appraising commercial personal property.

5 (c) If after conducting the annual study the commissioner
6 determines that the local value for a school district is valid, the
7 local value is presumed to represent taxable value for the school
8 district. In the absence of that presumption, taxable value for a
9 school district is the state value for the school district
10 determined in the annual study under Subsections (a) and (b),
11 unless the local value exceeds the state value, in which case the
12 taxable value for the school district is the district's local
13 value.

14 (d) For purposes of this section, "taxable value" means the
15 market value of all taxable property less:

16 (1) the total dollar amount of any residence homestead
17 exemptions lawfully granted under Section 11.13(b) or (c) in the
18 year that is the subject of the study for each school district;

19 (2) one-half of the total dollar amount of any
20 residence homestead exemptions granted under Section 11.13(n) in
21 the year that is the subject of the study for each school district;

22 (3) the total dollar amount of any exemptions granted
23 before May 31, 1993, within a reinvestment zone under agreements
24 authorized by Chapter 312;

25 (4) subject to Subsection (e), the total dollar amount
26 of any captured appraised value of property that:

27 (A) is within a reinvestment zone created on or

1 before May 31, 1999, or is proposed to be included within the
2 boundaries of a reinvestment zone as the boundaries of the zone and
3 the proposed portion of tax increment paid into the tax increment
4 fund by a school district are described in a written notification
5 provided by the municipality or the board of directors of the zone
6 to the governing bodies of the other taxing units in the manner
7 provided by Section 311.003(e) before May 31, 1999, and within the
8 boundaries of the zone as those boundaries existed on September 1,
9 1999, including subsequent improvements to the property regardless
10 of when made;

11 (B) generates taxes paid into a tax increment
12 fund created under Chapter 311 under a reinvestment zone financing
13 plan approved under Section 311.011(d) on or before September 1,
14 1999; and

15 (C) is eligible for tax increment financing under
16 Chapter 311;

17 (5) the total dollar amount of any exemptions granted
18 under Section 11.251;

19 (6) the difference between the commissioner's
20 determination of the market value and the productivity value of
21 land that qualifies for appraisal on the basis of its productive
22 capacity under Chapter 23;

23 (7) the portion of the appraised value of residence
24 homesteads of the elderly on which school district taxes are not
25 imposed in the year that is the subject of the study, calculated as
26 if the residence homesteads were appraised at the full value
27 required by law;

1 (8) a portion of the market value of property not
2 otherwise fully taxable by the district at market value because of:

3 (A) action required by statute or the
4 constitution of this state that, if the tax rate adopted by the
5 district is applied to it, produces an amount equal to the
6 difference between the tax that the district would have imposed on
7 the property if the property were fully taxable at market value and
8 the tax that the district is actually authorized to impose on the
9 property, if this subsection does not otherwise require that
10 portion to be deducted; or

11 (B) action taken by the district under Subchapter
12 B or C, Chapter 313;

13 (9) the market value of all tangible personal
14 property, other than manufactured homes, owned by a family or
15 individual and not held or used for the production of income;

16 (10) the appraised value of property for which the
17 collection of delinquent taxes is deferred under Section 33.06;

18 (11) the portion of the appraised value of property
19 for which the collection of delinquent taxes is deferred under
20 Section 33.065; and

21 (12) the amount by which the market value of a
22 residence homestead to which Section 23.23 applies exceeds the
23 appraised value of that property as calculated under that section.

24 (e) The total dollar amount deducted in each year as
25 required by Subsection (d)(3) in a reinvestment zone created after
26 January 1, 1999, may not exceed the captured appraised value
27 estimated for that year as required by Section 311.011(c)(8) in the

1 reinvestment zone financing plan approved under Section 311.011(d)
2 before September 1, 1999. The number of years for which the total
3 dollar amount may be deducted under Subsection (d)(3) shall for any
4 zone, including those created on or before January 1, 1999, be
5 limited to the duration of the zone as specified as required by
6 Section 311.011(c)(9) in the reinvestment zone financing plan
7 approved under Section 311.011(d) before September 1, 1999. The
8 total dollar amount deducted under Subsection (d)(3) for any zone,
9 including a zone created on or before January 1, 1999, may not be
10 increased by any reinvestment zone financing plan amendments that
11 occur after August 31, 1999. The total dollar amount deducted under
12 Subsection (d)(3) for any zone, including a zone created on or
13 before January 1, 1999, may not be increased by a change made after
14 August 31, 1999, in the portion of the tax increment retained by the
15 school district.

16 (f) The annual study shall determine the school district
17 values as of January 1 of each study year.

18 (g) If after conducting the annual study for the year 2004
19 or a subsequent year the commissioner determines that a school
20 district is an eligible school district, for that year and the
21 following year the taxable value for the school district is the
22 district's local value. Not later than the first anniversary of the
23 date of the determination that a school district is an eligible
24 school district, the commissioner shall complete an appraisal
25 standards review as provided by Section 51.42 of each appraisal
26 district that appraises property for the school district.

27 (h) The commissioner shall publish preliminary findings,

1 listing values by school district, before February 1 of the year
2 following the study year. Preliminary findings shall be delivered
3 to each school district and shall be certified to the commissioner
4 of education.

5 (i) For purposes of Section 42.2511, Education Code, the
6 commissioner shall certify to the commissioner of education:

7 (1) a final value for each school district computed on
8 a residence homestead exemption under Section 1-b(c), Article VIII,
9 Texas Constitution, of \$5,000; and

10 (2) a final value for each school district computed
11 on:

12 (A) a residence homestead exemption under
13 Section 1-b(c), Article VIII, Texas Constitution, of \$15,000; and

14 (B) the effect of the additional limitation on
15 tax increases under Section 1-b(d), Article VIII, Texas
16 Constitution.

17 (j) For purposes of Section 42.2522, Education Code, the
18 commissioner shall certify to the commissioner of education:

19 (1) a final value for each school district computed
20 without any deduction for residence homestead exemptions granted
21 under Section 11.13(n); and

22 (2) a final value for each school district computed
23 after deducting one-half the total dollar amount of residence
24 homestead exemptions granted under Section 11.13(n).

25 Sec. 51.22. ADMINISTRATIVE AND JUDICIAL REVIEW. (a) A
26 school district, or a property owner whose property is included in
27 the annual study and whose tax liability on the property is \$100,000

1 or more, may protest the commissioner's findings by filing a
2 petition with the commissioner. The petition must be filed not
3 later than the 40th day after the date on which the commissioner's
4 findings are certified to the commissioner of education and must
5 include specific pleadings stating the legal and appraisal issues
6 in dispute and the value claimed to be correct.

7 (b) On receipt of a petition, the commissioner shall hold a
8 hearing. The commissioner has the burden to prove the accuracy of
9 the findings. Until a final decision is made by the commissioner,
10 the taxable value of property in the district is determined, with
11 respect to the property subject to the protest, according to the
12 value of the property claimed by the school district or property
13 owner, except that the value to be used while a final decision is
14 pending may not be less than the value of the property as listed on
15 the school district's appraisal roll for the year of the study. If
16 after the hearing the commissioner concludes that the findings
17 should be changed, the commissioner shall order the appropriate
18 changes and shall certify the changes to the commissioner of
19 education. The commissioner shall complete all protest hearings
20 and certify all changes as necessary to comply with Chapter 42,
21 Education Code. A hearing conducted under this subsection is not a
22 contested case for purposes of Section 2001.003, Government Code.

23 (c) The commissioner shall adopt procedural rules governing
24 the conduct of protest hearings. The rules shall provide for each
25 protesting school district and property owner to:

26 (1) be informed of the requirements for submitting a
27 petition initiating a protest;

1 (2) receive adequate notice of a hearing;

2 (3) have an opportunity to present evidence and oral
3 argument; and

4 (4) be given notice by the commissioner of the
5 commissioner's decision on the hearing.

6 (d) A protesting school district may appeal a determination
7 of protest by the commissioner to a district court in Travis County
8 by filing a petition with the court. An appeal must be filed not
9 later than the 30th day after the date the school district receives
10 notice from the commissioner of the determination. Review is
11 conducted by the court sitting without a jury. The court shall
12 remand the determination to the commissioner if on review the court
13 discovers that substantial rights of the school district have been
14 prejudiced and that:

15 (1) the commissioner has acted arbitrarily and without
16 regard to the facts; or

17 (2) the determination of the commissioner is not
18 reasonably supported by substantial evidence introduced before the
19 court.

20 Sec. 51.23. AUDIT. (a) On request of a school district or
21 the commissioner of education, the commissioner may audit the total
22 taxable value of property in a school district and may revise the
23 annual study findings. The request for audit is limited to
24 corrections and changes in a school district's appraisal roll that
25 occurred after preliminary certification of the annual study
26 findings by the commissioner.

27 (b) Except as provided by Subsection (c), the request for

1 audit must be filed with the commissioner not later than the third
2 anniversary of the date of the final certification of the annual
3 study findings.

4 (c) The request for audit may be filed not later than the
5 first anniversary of the date the chief appraiser certifies a
6 change to the appraisal roll if:

7 (1) the chief appraiser corrects the appraisal roll
8 under Section 25.25 or 42.41; and

9 (2) the change results in a material reduction in the
10 total taxable value of property in the school district.

11 (d) The commissioner shall certify the findings of the audit
12 to the commissioner of education.

13 Sec. 51.24. CONFIDENTIALITY. (a) All information the
14 commissioner obtains from a person, other than a governmental
15 entity, under an assurance that the information will be kept
16 confidential, in the course of conducting the annual study is
17 confidential and may not be disclosed, except as provided by
18 Subsection (b).

19 (b) Information made confidential by this section may be
20 disclosed:

21 (1) in a judicial or administrative proceeding
22 pursuant to a lawful subpoena;

23 (2) to the person who gave the information to the
24 commissioner; or

25 (3) for statistical purposes if in a form that does not
26 identify specific property or a specific owner.

27 [Sections 51.25-51.40 reserved for expansion]

1 SUBCHAPTER C. DETERMINATION OF APPRAISAL DISTRICT ACCOUNTABILITY

2 Sec. 51.41. APPRAISAL DISTRICT RATIO STUDY. (a) The
3 commissioner shall conduct a study in each appraisal district for
4 each tax year to determine the degree of uniformity of and the
5 median level of appraisals by the appraisal district within each
6 major category of property for that tax year. In conducting the
7 study, the commissioner shall apply appropriate standard
8 statistical analysis techniques to data collected as part of the
9 annual study of school district property values required by Section
10 51.21.

11 (b) The commissioner shall publish a report of the findings
12 of the study, including the median level of appraisal for each major
13 category of property, the coefficient of dispersion around the
14 median level of appraisal for each major category of property, and
15 any other standard statistical measure that the commissioner
16 considers appropriate. A copy of the published report of the
17 commissioner shall be distributed to each member of the legislature
18 and to each appraisal district.

19 (c) In conducting a study under this section, the
20 commissioner or the commissioner's authorized representatives may
21 enter the premises of a business, trade, or profession and inspect
22 the property to determine the existence and market value of
23 property used for the production of income. An inspection under
24 this subsection must be made during normal business hours or at a
25 time mutually agreeable to the commissioner or the commissioner's
26 authorized representatives and the person in control of the
27 premises.

1 Sec. 51.42. APPRAISAL STANDARDS REVIEW. (a) The
2 commissioner shall review the appraisal standards, procedures, and
3 methodology used by each appraisal district that appraises property
4 for an eligible school district to determine compliance with
5 generally accepted appraisal standards and practices. The
6 commissioner by rule may establish procedures and standards for
7 conducting the review.

8 (b) In conducting the review, the commissioner is entitled
9 to access to all records and reports of the appraisal district and
10 to the assistance of the appraisal district's officers and
11 employees.

12 (c) If the review results in a finding that an appraisal
13 district is not in compliance with generally accepted appraisal
14 standards and practices, the commissioner shall deliver a report
15 that details the commissioner's findings and recommendations for
16 improvement to:

17 (1) the appraisal district's chief appraiser and board
18 of directors; and

19 (2) the superintendent and board of trustees of each
20 school district participating in the appraisal district.

21 (d) If the appraisal district fails to comply with the
22 recommendations in the report and the commissioner finds that the
23 board of directors of the appraisal district failed to take
24 remedial action before the first anniversary of the date the report
25 was issued, the commissioner shall notify the judge of each
26 district court in the county for which the appraisal district is
27 established, who shall appoint a board of conservators consisting

1 of five members to implement the recommendations. The board of
2 conservators shall exercise supervision and control over the
3 operations of the appraisal district until the commissioner
4 determines under Section 51.21 that in the same year the taxable
5 value of each school district for which the appraisal district
6 appraises property is the local value for the district. The
7 appraisal district shall bear the costs related to the supervision
8 and control of the district by the board of conservators.

9 Sec. 51.43. APPRAISAL DISTRICT PERFORMANCE AUDITS. (a)
10 The commissioner shall audit the performance of an appraisal
11 district if one or more of the following conditions exist according
12 to each of two consecutive ratio studies conducted under Section
13 51.41, regardless of whether the prescribed condition or conditions
14 that exist are the same for each of those studies:

15 (1) the overall median level of appraisal for all
16 property in the district for which the commissioner determines a
17 median level of appraisal is less than 0.75;

18 (2) the coefficient of dispersion around the overall
19 median level of appraisal of the properties used to determine the
20 overall median level of appraisal for all property in the district
21 for which the commissioner determines a median level of appraisal
22 is more than 0.30; or

23 (3) the difference between the median levels of
24 appraisal for any two classes of property in the district for which
25 the commissioner determines a median level of appraisal is more
26 than 0.45.

27 (b) At the written request of the governing bodies of a

1 majority of the taxing units participating in an appraisal district
2 or of a majority of the taxing units entitled to vote on the
3 appointment of appraisal district directors, the commissioner
4 shall audit the performance of the appraisal district. The
5 governing bodies may request a general audit of the performance of
6 the appraisal district or may request an audit of only one or more
7 specific duties, practices, functions, departments, or other
8 appraisal district matters.

9 (c) At the written request of the owners of not less than 10
10 percent of the number of accounts or parcels of property in an
11 appraisal district belonging to a single class of property, if the
12 class constitutes at least five percent of the appraised value of
13 taxable property within the district in the preceding year, or at
14 the written request of the owners of property representing not less
15 than 10 percent of the appraised value of all property in the
16 district belonging to a single class of property, if the class
17 constitutes at least five percent of the appraised value of taxable
18 property in the district in the preceding year, the commissioner
19 shall audit the performance of the appraisal district. The
20 property owners may request a general audit of the performance of
21 the appraisal district or may request an audit of only one or more
22 specific duties, practices, functions, departments, or other
23 appraisal district matters. A property owner may authorize an
24 agent to sign a request for an audit under this subsection on the
25 property owner's behalf. The commissioner may require a person
26 signing a request for an audit to provide proof that the person is
27 entitled to sign the request as a property owner or as the agent of a

1 property owner.

2 (d) A request for a performance audit of an appraisal
3 district may not be made under Subsection (b) or (c) if according to
4 each of the two most recently published ratio studies conducted by
5 the commissioner under Section 51.41:

6 (1) the overall median level of appraisal for all
7 property in the district for which the commissioner determines a
8 median level of appraisal is more than 0.90 and less than 1.10;

9 (2) the coefficient of dispersion around the overall
10 median level of appraisal of the properties used to determine the
11 overall median level of appraisal for all property in the district
12 for which the commissioner determines a median level of appraisal
13 is less than 0.15; and

14 (3) the difference between the highest and lowest
15 median levels of appraisal in the district for the classes of
16 property for which the commissioner determines a median level of
17 appraisal is less than 0.20.

18 (e) A request for a performance audit of an appraisal
19 district may not be made under Subsection (b) or (c):

20 (1) during the two years following the publication of
21 the second of two consecutive ratio studies according to which the
22 commissioner is required to conduct an audit of the district under
23 Subsection (a); or

24 (2) during the year immediately following the date the
25 results of an audit of the district conducted by the commissioner
26 under Subsection (a) are reported to the chief appraiser of the
27 district.

1 (f) For purposes of this section, "class of property" means
2 a major kind of property for which the commissioner determines a
3 median level of appraisal under Section 51.41.

4 (g) In addition to the performance audits permitted by
5 Subsections (a), (b), and (c) and the appraisal standards review
6 required by Section 51.42, the commissioner may audit an appraisal
7 district to analyze the effectiveness and efficiency of the
8 policies, management, and operations of the appraisal district.
9 The results of the audit shall be delivered in a report that details
10 the commissioner's findings and recommendations for improvement to
11 the appraisal district's chief appraiser and board of directors and
12 to the governing body of each taxing unit participating in the
13 appraisal district. The commissioner may require reimbursement by
14 the appraisal district for some or all of the costs of the audit,
15 not to exceed the actual costs associated with conducting the
16 audit.

17 Sec. 51.44. ADMINISTRATION OF PERFORMANCE AUDITS. (a) The
18 commissioner shall complete an audit required by Section 51.43(a)
19 not later than the second anniversary of the date of the publication
20 of the second of the two ratio studies the results of which required
21 the audit to be conducted. The commissioner shall complete an audit
22 requested under Section 51.43(b) or (c) as soon as practicable
23 after the request is made. The commissioner shall complete an audit
24 conducted under Section 51.43(g) not later than the first
25 anniversary of the date that it is initiated by the commissioner.

26 (b) The commissioner may not audit the financial condition
27 of an appraisal district or a district's tax collections. If the

1 request is for an audit limited to one or more particular matters,
2 the commissioner's audit must be limited to those matters.

3 (c) The commissioner must approve the specific plan for the
4 performance audit of an appraisal district. Before approving an
5 audit plan, the commissioner must provide any interested person an
6 opportunity to appear before the commissioner and to comment on the
7 proposed plan. Not later than the 20th day before the date the
8 commissioner considers the plan for an appraisal district
9 performance audit, the commissioner must notify the presiding
10 officer of the appraisal district's board of directors that the
11 commissioner intends to consider the plan. The notice must include
12 the time, date, and location of the meeting to consider the plan.
13 Immediately after receiving the notice, the presiding officer shall
14 deliver a copy of the notice to the other members of the appraisal
15 district's board of directors.

16 (d) In conducting a general audit, the commissioner shall
17 consider and report on:

18 (1) the extent to which the district complies with
19 applicable law and generally accepted standards of appraisal or
20 other relevant practice;

21 (2) the uniformity and level of appraisal of major
22 kinds of property and the cause of any significant deviation from
23 ideal uniformity and equality of appraisal of major kinds of
24 property;

25 (3) duplication of effort and efficiency of operation;

26 (4) the general efficiency, quality of service, and
27 qualification of appraisal district personnel; and

1 (5) except as otherwise provided by Subsection (b),
2 any other matter included in the request for the audit.

3 (e) In conducting the audit, the commissioner is entitled to
4 have access at all times to the books, appraisal and other records,
5 reports, vouchers, and other information, confidential or not, of
6 the appraisal district. The commissioner may require the
7 assistance of appraisal district officers and employees that does
8 not interfere significantly with the ordinary functions of the
9 appraisal district. The commissioner may rely on any previous
10 analysis the commissioner has made relating to the appraisal
11 district if the previous analysis is useful or relevant to the
12 audit.

13 (f) The commissioner shall report the results of the audit
14 in writing to the governing body of each taxing unit that
15 participates in the appraisal district, to the chief appraiser, and
16 to the presiding officer of the appraisal district's board of
17 directors. If the audit was requested under Section 51.43(c), the
18 commissioner shall also provide a report to a representative of the
19 property owners who requested the audit.

20 (g) If the audit is required or requested under Section
21 51.43(a) or (b), the appraisal district shall reimburse the
22 commissioner for the costs incurred in conducting the audit and
23 making the commissioner's report of the audit. The costs shall be
24 allocated among the taxing units participating in the district in
25 the same manner as an operating expense of the district. If the
26 audit is requested under Section 51.43(c), the property owners who
27 requested the audit shall reimburse the commissioner for the costs

1 incurred in conducting the audit and making the report of the audit
2 and shall allocate the costs among those property owners in
3 proportion to the appraised value of each property owner's property
4 in the district or on any other basis agreed to by the property
5 owners. If the audit confirms that the median level of appraisal
6 for a class of property exceeds 1.10 or that the median level of
7 appraisal for a class of property varies at least 10 percent from
8 the overall median level of appraisal for all property in the
9 district for which the commissioner determines a median level of
10 appraisal, not later than the 90th day after the date a request is
11 made by the property owners for reimbursement the appraisal
12 district shall reimburse the property owners who requested the
13 audit for the amount paid to the commissioner for the costs incurred
14 in conducting the audit and making the report. Before conducting an
15 audit under Section 51.43(c), the commissioner may require the
16 requesting property owners to provide the commissioner with a bond,
17 deposit, or other financial security sufficient to cover the
18 projected costs of conducting the audit and making the report. For
19 purposes of this subsection, "costs" include expenses related to
20 salaries, professional fees, travel, reproduction or other
21 printing services, and consumable supplies that are directly
22 attributable to conducting the audit.

23 (h) At any time after the request for an audit is made, the
24 commissioner may discontinue the audit in whole or in part if
25 requested to do so by:

26 (1) the governing bodies of a majority of the taxing
27 units participating in the district, if the audit was requested by a

1 majority of those units;

2 (2) the governing bodies of a majority of the taxing
3 units entitled to vote on the appointment of appraisal district
4 directors, if the audit was requested by a majority of those units;
5 or

6 (3) if the audit was requested under Section 51.43(c),
7 by the property owners who requested the audit.

8 (i) The commissioner by rule may adopt procedures, audit
9 standards, and forms for the administration of performance audits.

10 Sec. 51.45. ADMINISTRATIVE PROVISIONS. (a) The
11 commissioner may inspect the records or other materials of an
12 appraisal district or taxing unit, including relevant records and
13 materials in the possession or control of a consultant, advisor, or
14 expert hired by the appraisal district or taxing unit, for the
15 purpose of conducting an annual study, ratio study, appraisal
16 standards review, or performance audit required or authorized by
17 this chapter.

18 (b) On request of the commissioner, the appraisal district
19 or administrative officer of the taxing unit shall produce the
20 records or other materials in the form and manner prescribed by the
21 commissioner.

22 (c) The commissioner shall prescribe a uniform record
23 system to be used by all appraisal districts for the purpose of
24 submitting data to be used in the annual study and ratio study. The
25 record system shall include a compilation of information concerning
26 sales of real property within the boundaries of the appraisal
27 district. The sales information maintained in the uniform record

1 system shall be submitted annually in a form prescribed by the
2 commissioner.

3 SECTION 13A.02. Section 13.051(c), Education Code, is
4 amended to read as follows:

5 (c) Territory that does not have residents may be detached
6 from a school district and annexed to another school district if:

7 (1) the total taxable value of the property in the
8 territory according to the most recent certified appraisal roll for
9 each school district is not greater than:

10 (A) five percent of the district's taxable value
11 of all property in that district as determined under Subchapter B,
12 Chapter 51, Tax [~~Subchapter M, Chapter 403, Government~~] Code; and

13 (B) \$5,000 property value per student in average
14 daily attendance as determined under Section 42.005; and

15 (2) the school district from which the property will
16 be detached does not own any real property located in the territory.

17 SECTION 13A.03. Section 13.231(b), Education Code, is
18 amended to read as follows:

19 (b) In this section, "taxable value" has the meaning
20 assigned by Section 51.21, Tax [~~403.302, Government~~] Code.

21 SECTION 13A.04. Section 41.001(2), Education Code, is
22 amended to read as follows:

23 (2) "Wealth per student" means the taxable value of
24 property, as determined under Subchapter B, Chapter 51, Tax
25 [~~Subchapter M, Chapter 403, Government~~] Code, divided by the number
26 of students in weighted average daily attendance.

27 SECTION 13A.05. Section 41.002(f), Education Code, is

amended to read as follows:

(f) For purposes of Subsection (e), a school district's effective tax rate is determined by dividing the total amount of taxes collected by the district for the applicable school year less any amounts paid into a tax increment fund under Chapter 311, Tax Code, by the quotient of the district's taxable value of property, as determined under Subchapter B, Chapter 51, Tax [~~Subchapter M, Chapter 403, Government~~] Code, divided by 100.

SECTION 13A.06. Section 41.005, Education Code, is amended to read as follows:

Sec. 41.005. [~~COMPTROLLER AND APPRAISAL DISTRICT~~] COOPERATION. The chief appraiser of each appraisal district and the commissioner of the State Board on Property Valuation [~~comptroller~~] shall cooperate with the commissioner and school districts in implementing this chapter.

SECTION 13A.07. Section 41.202(a), Education Code, is amended to read as follows:

(a) For purposes of this subchapter, the taxable value of an individual parcel or other item of property and the total taxable value of property in a school district resulting from the detachment of property from or annexation of property to that district is determined by applying the appraisal ratio for the appropriate category of property determined under Subchapter B, Chapter 51, Tax [~~Subchapter M, Chapter 403, Government~~] Code, for the preceding tax year to the taxable value of the detached or annexed property determined under Title 1, Tax Code, for the preceding tax year.

SECTION 13A.08. Sections 42.106 and 42.2511, Education Code, are amended to read as follows:

Sec. 42.106. ADJUSTED PROPERTY VALUE FOR DISTRICTS NOT OFFERING ALL GRADE LEVELS. For purposes of this chapter, the taxable value of property of a school district that contracts for students residing in the district to be educated in another district under Section 25.039(a) is adjusted by applying the formula:

$$ADPV = DPV - (TN/.015)$$

where:

"ADPV" is the district's adjusted taxable value of property;

"DPV" is the taxable value of property in the district for the preceding tax year determined under Subchapter B, Chapter 51, Tax [~~Subchapter M, Chapter 403, Government~~] Code; and

"TN" is the total amount of tuition required to be paid by the district under Section 25.039 for the school year for which the adjustment is made.

Sec. 42.2511. ADDITIONAL STATE AID FOR HOMESTEAD EXEMPTION.

(a) Notwithstanding any other provision of this chapter, a school district is entitled to additional state aid to the extent that state aid under this chapter based on the determination of the school district's taxable value of property as provided under Subchapter B, Chapter 51, Tax [~~Subchapter M, Chapter 403, Government~~] Code, does not fully compensate the district for ad valorem tax revenue lost due to the increase in the homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, as proposed by H.J.R. No. 4, 75th Legislature, Regular Session,

1997, and the additional limitation on tax increases under Section 1-b(d), Article VIII, Texas Constitution, as proposed by H.J.R. No. 4, 75th Legislature, Regular Session, 1997.

(b) The commissioner, using information provided by the commissioner of the State Board on Property Valuation ~~[comptroller]~~, shall compute the amount of additional state aid to which a district is entitled under this section. A determination by the commissioner under this section is final and may not be appealed.

SECTION 13A.09. Sections 42.252(a) and (c), Education Code, are amended to read as follows:

(a) Each school district's share of the Foundation School Program is determined by the following formula:

$$\text{LFA} = \text{TR} \times \text{DPV}$$

where:

"LFA" is the school district's local share;

"TR" is a tax rate which for each hundred dollars of valuation is an effective tax rate of \$0.86; and

"DPV" is the taxable value of property in the school district for the preceding tax year determined under Subchapter B, Chapter 51, Tax ~~[Subchapter M, Chapter 403, Government]~~ Code.

(c) Appeals of district values shall be held pursuant to Section 51.22, Tax ~~[403.303, Government]~~ Code.

SECTION 13A.10. Sections 42.252(a) and (d), Education Code, are amended to read as follows:

(a) In any school year, the commissioner may not provide funding under this chapter based on a school district's taxable

1 value of property computed in accordance with Section 51.21(d)(2),
2 Tax ~~[403.302(d)(2), Government]~~ Code, unless:

3 (1) funds are specifically appropriated for purposes
4 of this section; or

5 (2) the commissioner determines that the total amount
6 of state funds appropriated for purposes of the Foundation School
7 Program for the school year exceeds the amount of state funds
8 distributed to school districts in accordance with Section 42.253
9 based on the taxable values of property in school districts
10 computed in accordance with Section 51.21(d), Tax ~~[403.302(d),~~
11 ~~Government]~~ Code, without any deduction for residence homestead
12 exemptions granted under Section 11.13(n), Tax Code.

13 (d) If the commissioner determines that the amount of funds
14 available under Subsection (a)(1) or (2) does not at least equal the
15 total amount of state funding to which districts would be entitled
16 if state funding under this chapter were based on the taxable values
17 of property in school districts computed in accordance with Section
18 51.21(d)(2), Tax ~~[403.302(d)(2), Government]~~ Code, the
19 commissioner may, to the extent necessary, provide state funding
20 based on a uniform lesser fraction of the deduction under Section
21 51.21(d)(2), Tax ~~[403.302(d)(2), Government]~~ Code.

22 SECTION 13A.11. Section 42.253(h), Education Code, is
23 amended to read as follows:

24 (h) If the legislature fails during the regular session to
25 enact the transfer and appropriation proposed under Subsection (f)
26 and there are not funds available under Subsection (j), the
27 commissioner shall reduce the total amount of state funds allocated

1 to each district by an amount determined by a method under which the
2 application of the same number of cents of increase in tax rate in
3 all districts applied to the taxable value of property of each
4 district, as determined under Subchapter B, Chapter 51, Tax
5 ~~[Subchapter M, Chapter 403, Government]~~ Code, results in a total
6 levy equal to the total reduction. The following fiscal year, a
7 district's entitlement under this section is increased by an amount
8 equal to the reduction made under this subsection.

9 SECTION 13A.12. Section 42.254, Education Code, is amended
10 to read as follows:

11 Sec. 42.254. ESTIMATES REQUIRED. (a) Not later than
12 October 1 of each even-numbered year:

13 (1) the agency shall submit to the legislature an
14 estimate of the tax rate and student enrollment of each school
15 district for the following biennium; and

16 (2) the commissioner of the State Board on Property
17 Valuation ~~[comptroller]~~ shall submit to the legislature an estimate
18 of the total taxable value of all property in the state as
19 determined under Subchapter B, Chapter 51, Tax ~~[Subchapter M,~~
20 ~~Chapter 403, Government]~~ Code, for the following biennium.

21 (b) The agency and the commissioner of the State Board on
22 Property Valuation ~~[comptroller]~~ shall update the information
23 provided to the legislature under Subsection (a) not later than
24 March 1 of each odd-numbered year.

25 SECTION 13A.13. Section 42.257(a), Education Code, is
26 amended to read as follows:

27 (a) If the final determination of an appeal under Chapter

42, Tax Code, results in a reduction in the taxable value of property that exceeds five percent of the total taxable value of property in the school district for the same tax year determined under Subchapter B, Chapter 51, Tax [~~Subchapter M, Chapter 403, Government~~] Code, the commissioner shall request the commissioner of the State Board on Property Valuation [~~comptroller~~] to adjust the [~~its~~] taxable property value findings for that year consistent with the final determination of the appraisal appeal.

SECTION 13A.14. Section 42.302(a), Education Code, is amended to read as follows:

(a) Each school district is guaranteed a specified amount per weighted student in state and local funds for each cent of tax effort over that required for the district's local fund assignment up to the maximum level specified in this subchapter. The amount of state support, subject only to the maximum amount under Section 42.303, is determined by the formula:

$$\text{GYA} = (\text{GL} \times \text{WADA} \times \text{DTR} \times 100) - \text{LR}$$

where:

"GYA" is the guaranteed yield amount of state funds to be allocated to the district;

"GL" is the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort, which is \$27.14 or a greater amount for any year provided by appropriation;

"WADA" is the number of students in weighted average daily attendance, which is calculated by dividing the sum of the school district's allotments under Subchapters B and C, less any allotment to the district for transportation, any allotment under Section

42.158, and 50 percent of the adjustment under Section 42.102, by the basic allotment for the applicable year;

"DTR" is the district enrichment tax rate of the school district, which is determined by subtracting the amounts specified by Subsection (b) from the total amount of maintenance and operations taxes collected by the school district for the applicable school year and dividing the difference by the quotient of the district's taxable value of property as determined under Subchapter B, Chapter 51, Tax [~~Subchapter M, Chapter 403, Government~~] Code, or, if applicable, under Section 42.2521, divided by 100; and

"LR" is the local revenue, which is determined by multiplying "DTR" by the quotient of the district's taxable value of property as determined under Subchapter B, Chapter 51, Tax [~~Subchapter M, Chapter 403, Government~~] Code, or, if applicable, under Section 42.2521, divided by 100.

SECTION 13A.15. Section 46.003(a), Education Code, is amended to read as follows:

(a) For each year, except as provided by Sections 46.005 and 46.006, a school district is guaranteed a specified amount per student in state and local funds for each cent of tax effort, up to the maximum rate under Subsection (b), to pay the principal of and interest on eligible bonds issued to construct, acquire, renovate, or improve an instructional facility. The amount of state support is determined by the formula:

$$\text{FYA} = (\text{FYL} \times \text{ADA} \times \text{BTR} \times 100) - (\text{BTR} \times (\text{DPV}/100))$$

where:

1 "FYA" is the guaranteed facilities yield amount of state
2 funds allocated to the district for the year;

3 "FYL" is the dollar amount guaranteed level of state and
4 local funds per student per cent of tax effort, which is \$35 or a
5 greater amount for any year provided by appropriation;

6 "ADA" is the greater of the number of students in average
7 daily attendance, as determined under Section 42.005, in the
8 district or 400;

9 "BTR" is the district's bond tax rate for the current year,
10 which is determined by dividing the amount budgeted by the district
11 for payment of eligible bonds by the quotient of the district's
12 taxable value of property as determined under Subchapter B, Chapter
13 51, Tax [~~Subchapter M, Chapter 403, Government~~] Code, or, if
14 applicable, Section 42.2521, divided by 100; and

15 "DPV" is the district's taxable value of property as
16 determined under Subchapter B, Chapter 51, Tax [~~Subchapter M,~~
17 ~~Chapter 403, Government~~] Code, or, if applicable, Section 42.2521.

18 SECTION 13A.16. Section 46.006(g), Education Code, is
19 amended to read as follows:

20 (g) In this section, "wealth per student" means a school
21 district's taxable value of property as determined under Subchapter
22 B, Chapter 51, Tax [~~Subchapter M, Chapter 403, Government~~] Code,
23 or, if applicable, Section 42.2521, divided by the district's
24 average daily attendance as determined under Section 42.005.

25 SECTION 13A.17. Section 46.032(a), Education Code, is
26 amended to read as follows:

27 (a) Each school district is guaranteed a specified amount

per student in state and local funds for each cent of tax effort to pay the principal of and interest on eligible bonds. The amount of state support, subject only to the maximum amount under Section 46.034, is determined by the formula:

$$\text{EDA} = (\text{EDGL} \times \text{ADA} \times \text{EDTR} \times 100) - (\text{EDTR} \times (\text{DPV}/100))$$

where:

"EDA" is the amount of state funds to be allocated to the district for assistance with existing debt;

"EDGL" is the dollar amount guaranteed level of state and local funds per student per cent of tax effort, which is \$35 or a greater amount for any year provided by appropriation;

"ADA" is the number of students in average daily attendance, as determined under Section 42.005, in the district;

"EDTR" is the existing debt tax rate of the district, which is determined by dividing the amount budgeted by the district for payment of eligible bonds by the quotient of the district's taxable value of property as determined under Subchapter B, Chapter 51, Tax [~~Subchapter M, Chapter 403, Government~~] Code, or, if applicable, under Section 42.2521, divided by 100; and

"DPV" is the district's taxable value of property as determined under Subchapter B, Chapter 51, Tax [~~Subchapter M, Chapter 403, Government~~] Code, or, if applicable, under Section 42.2521.

SECTION 13A.18. Sections 825.405(h) and (i), Government Code, are amended to read as follows:

(h) This section does not apply to state contributions for members employed by a school district in a school year if the

1 district's effective tax rate for maintenance and operation
2 revenues for the tax year that ended in the preceding school year
3 equals or exceeds 125 percent of the statewide average effective
4 tax rate for school district maintenance and operation revenues for
5 that tax year. For a tax year, the statewide average effective tax
6 rate for school district maintenance and operation revenues is the
7 tax rate that, if applied to the statewide total appraised value of
8 taxable property for every school district in the state determined
9 under Section 51.21, Tax Code [~~403.302~~], would produce an amount
10 equal to the statewide total amount of maintenance and operation
11 taxes imposed in the tax year for every school district in the
12 state.

13 (i) Not later than the seventh day after the final date the
14 commissioner of the State Board on Property Valuation [~~comptroller~~]
15 certifies to the commissioner of education changes to the property
16 value study conducted under Section 51.21, Tax Code [~~Subchapter M,~~
17 ~~Chapter 403~~], the commissioner of the State Board on Property
18 Valuation [~~comptroller~~] shall certify to the Teacher Retirement
19 System of Texas:

20 (1) the effective tax rate for school district
21 maintenance and operation revenues for each school district in the
22 state for the immediately preceding tax year; and

23 (2) the statewide average effective tax rate for
24 school district maintenance and operation revenues for the
25 immediately preceding tax year.

26 SECTION 13A.19. Section 61.040, Health and Safety Code, is
27 amended to read as follows:

1 Sec. 61.040. TAX INFORMATION. (a) The commissioner of the
2 State Board on Property Valuation [~~comptroller~~] shall give the
3 department information relating to[+]

4 [~~(1)~~] the taxable value of property taxable by each
5 county and each county's applicable general revenue tax levy for
6 the relevant period.

7 (b) The comptroller shall give the department information
8 relating to[+and

9 [~~(2)~~] the amount of sales and use tax revenue received
10 by each county for the relevant period.

11 SECTION 13A.20. Section 1152.204(c), Occupations Code, is
12 amended to conform to the changes in terminology made by Chapter
13 836, Acts of the 77th Legislature, Regular Session, 2001, and is
14 further amended to read as follows:

15 (c) The executive director [~~commissioner~~] may recognize an
16 educational program or course:

17 (1) related to property tax consulting services; and
18 (2) offered or sponsored by a public provider or a
19 recognized private provider, including:

20 (A) the commissioner of the State Board on
21 Property Valuation [~~comptroller~~];

22 (B) the State Bar of Texas;

23 (C) the Texas Real Estate Commission;

24 (D) an institution of higher education that meets
25 program and accreditation standards comparable to those for public
26 institutions of higher education as determined by the Texas Higher
27 Education Coordinating Board; or

(E) a nonprofit and voluntary trade association, institute, or organization:

(i) whose membership consists primarily of persons who represent property owners in property tax or transactional tax matters;

(ii) that has written experience and examination requirements for membership or for granting professional designation to its members; and

(iii) that subscribes to a code of professional conduct or ethics.

SECTION 13A.21. Section 1.04, Tax Code, is amended by amending Subdivision (19) and adding Subdivision (20) to read as follows:

(19) "Commissioner" [~~"Comptroller"~~] means the commissioner of the State Board on Property Valuation [~~Comptroller of Public Accounts of the State of Texas~~].

(20) "Board" means the State Board on Property Valuation.

SECTION 13A.22. Section 1.111(h), Tax Code, is amended to read as follows:

(h) The commissioner [~~comptroller~~] shall prescribe forms and adopt rules to facilitate compliance with this section. The commissioner [~~comptroller~~] shall include on any form used for designation of an agent for a single-family residential property in which the property owner resides the following statement in boldfaced type:

"In some cases, you may want to contact your appraisal

1 district or other local taxing units for free information and/or
2 forms concerning your case before designating an agent."

3 SECTION 13A.23. Chapter 5, Tax Code, is amended by adding
4 Sections 5.01 and 5.02 to read as follows:

5 Sec. 5.01. STATE BOARD ON PROPERTY VALUATION. (a) The
6 State Board on Property Valuation is established. The board
7 consists of five members appointed by the governor.

8 (b) Members of the board hold office for terms of six years,
9 with the terms of one or two members expiring March 1 of each
10 odd-numbered year.

11 (c) To be eligible to serve on the board, a person must:

12 (1) have been a resident of this state for at least 10
13 years; and

14 (2) possess knowledge, skill, and experience in
15 property tax administration, property appraisal, or school
16 finance.

17 (d) A person is not eligible to serve as a member of the
18 board if the person or the person's spouse:

19 (1) is registered with or certified by the Board of Tax
20 Professional Examiners;

21 (2) is employed by or participates in the management
22 of a school district, an appraisal district, the office of an
23 assessor or collector, or a business entity or other organization
24 that is substantially and directly affected by the activities of
25 the board or that does substantial business with the board; or

26 (3) uses or receives a substantial amount of tangible
27 goods, services, or funds from the board, other than compensation

1 or reimbursement authorized by law for board membership,
2 attendance, or expenses.

3 (e) Appointments to the board shall be made without regard
4 to the race, color, disability, sex, religion, age, or national
5 origin of the appointees.

6 (f) The governor shall designate one of the members of the
7 board to serve as presiding officer of the board. The presiding
8 officer serves in that capacity for a term of two years expiring on
9 March 1 of an odd-numbered year.

10 (g) The board shall maintain its principal office in Austin.

11 (h) The board shall meet at least once in each calendar
12 quarter and shall meet at other times at the call of the presiding
13 officer or as provided by the rules of the board.

14 (i) The board is subject to the open meetings law, Chapter
15 551, Government Code, and the administrative procedure law, Chapter
16 2001, Government Code.

17 (j) A member of the board may not receive compensation for
18 service on the board but is entitled to reimbursement for actual and
19 necessary expenses incurred in performing functions as a board
20 member, subject to any applicable limitation on reimbursement
21 provided by the General Appropriations Act.

22 (k) It is a ground for removal from the board if a member:

23 (1) violates a prohibition established by Subsection
24 (d);

25 (2) cannot because of illness or disability discharge
26 the member's duties for a substantial part of the term for which the
27 member is appointed; or

1 (3) is absent from more than half of the regularly
2 scheduled board meetings that the member is eligible to attend
3 during a calendar year unless the absence is excused by majority
4 vote of the board.

5 Sec. 5.02. BOARD PERSONNEL AND OPERATIONS. (a) The board
6 shall employ the commissioner, who shall administer board policies
7 and perform all duties as provided by law.

8 (b) The commissioner shall employ and supervise
9 professional, clerical, and other personnel necessary to perform
10 all duties as required by law, board policy, and direction of the
11 board or commissioner.

12 (c) The commissioner shall provide to board staff, as often
13 as necessary, information regarding their qualifications for
14 employment under this chapter and their responsibilities under
15 applicable laws relating to standards of conduct for state
16 employees.

17 (d) The comptroller, by interagency contract, may provide
18 support to the board for payroll, human resources, computer
19 maintenance and technical assistance, printing and distribution of
20 publications, and similar administrative services.

21 SECTION 13A.24. Section 5.03, Tax Code, is amended to read
22 as follows:

23 Sec. 5.03. POWERS AND DUTIES GENERALLY. (a) The board
24 [comptroller] shall adopt rules establishing minimum standards for
25 the administration and operation of an appraisal district. The
26 minimum standards may vary according to the number of parcels and
27 the kinds of property the district is responsible for appraising.

1 (b) The board [~~comptroller~~] may require from each district
2 engaged in appraising property for taxation an annual report on a
3 form prescribed by the commissioner [~~comptroller~~] on the
4 administration and operation of the appraisal office.

5 (c) The board [~~comptroller~~] may contract with consultants
6 to assist in performance of the duties imposed by this chapter.

7 (d) The board is responsible for ensuring that the
8 commissioner performs the duties required by law of the
9 commissioner.

10 (e) The board has the powers necessary to carry out its
11 powers and duties under this title.

12 (f) The board may:

13 (1) adopt rules necessary to carry out the board's
14 powers and duties under this title;

15 (2) sue and be sued;

16 (3) enter into contracts and other necessary
17 instruments;

18 (4) impose administrative fees and charges for the
19 costs of publications;

20 (5) purchase liability insurance covering the board
21 and employees and agents of the board; and

22 (6) establish other policies, procedures, and
23 eligibility criteria necessary to carry out the board's powers and
24 duties under this title.

25 SECTION 13A.25. Section 5.04(a), Tax Code, is amended to
26 read as follows:

27 (a) The commissioner [~~comptroller~~] shall consult and

1 cooperate with the Board of Tax Professional Examiners or any
2 successor agency responsible for certifying tax professionals in
3 this state in setting standards for and approving curricula and
4 materials for use in training and educating appraisers and
5 assessor-collectors, and the commissioner [~~comptroller~~] may
6 cooperate with the board or with other public agencies, educational
7 institutions, or private organizations in sponsoring courses of
8 instruction and training programs.

9 SECTION 13A.26. Sections 5.041(a), (c), (d), and (f), Tax
10 Code, are amended to read as follows:

11 (a) The board [~~comptroller~~] shall:

12 (1) approve curricula and provide materials for use in
13 training and educating members of an appraisal review board; and

14 (2) supervise a course for training and education of
15 appraisal review board members and issue certificates indicating
16 course completion.

17 (c) The board [~~comptroller~~] may contract with service
18 providers to assist with the duties imposed under Subsection (a),
19 but the course required may not be provided by an appraisal district
20 or a taxing unit. The board [~~comptroller~~] may assess a fee to
21 recover a portion of the costs incurred for the training course, but
22 the fee may not exceed \$50 per person trained.

23 (d) The course material for the course required under
24 Subsection (a) is the [~~comptroller's~~] Appraisal Review Board Manual
25 prepared by the commissioner in use on the effective date of this
26 section. The manual shall be updated regularly. It may be revised
27 on request, in writing, to the board [~~comptroller~~]. The revision

1 language must be approved on the unanimous agreement of a committee
2 selected by the board [~~comptroller~~] and representing, equally,
3 taxpayers and chief appraisers. The person requesting the revision
4 shall pay the costs of mediation if the board [~~comptroller~~]
5 determines that mediation is required.

6 (f) The commissioner [~~comptroller~~] may not advise a
7 property owner, a property owner's agent, an appraisal district, or
8 an appraisal review board on a matter that the commissioner
9 [~~comptroller~~] knows is the subject of a protest to the appraisal
10 review board.

11 SECTION 13A.27. Sections 5.05(a), (b), and (c), Tax Code,
12 are amended to read as follows:

13 (a) The commissioner [~~comptroller~~] shall prepare and issue:
14 (1) a general appraisal manual;
15 (2) special appraisal manuals;
16 (3) cost, price, and depreciation schedules, with
17 provision for inserting local market index factors and with a
18 standard procedure for determining local market index factors;
19 (4) news and reference bulletins;
20 (5) annotated digests of all laws relating to property
21 taxation; and
22 (6) a handbook of all rules promulgated by the board or
23 commissioner [~~comptroller~~] relating to the property tax and its
24 administration.

25 (b) The commissioner [~~comptroller~~] shall revise or
26 supplement all materials periodically as necessary to keep them
27 current.

(c) The commissioner [~~comptroller~~] shall provide without charge one copy of all materials to officials of local government who are responsible for administering the property tax system. If a local government official requests more than one copy, the commissioner [~~comptroller~~] may charge a reasonable fee to offset the costs of printing and distributing the materials. The commissioner [~~comptroller~~] shall make the materials available to members of the public but may charge a reasonable fee to offset the costs of printing and distributing the materials.

SECTION 13A.28. Sections 5.06, 5.07, 5.08, 5.09, 5.101, 5.14, and 5.16, Tax Code, are amended to read as follows:

Sec. 5.06. EXPLANATION OF TAXPAYER REMEDIES. (a) The commissioner [~~comptroller~~] shall prepare and publish a pamphlet explaining the remedies available to dissatisfied taxpayers and the procedures to be followed in seeking remedial action. The commissioner [~~comptroller~~] shall include in the pamphlet advice on preparing and presenting a protest.

(b) The commissioner [~~comptroller~~] shall provide without charge a reasonable number of copies of the pamphlet to any person on request. The commissioner [~~comptroller~~] may charge a person who requests multiple copies of the pamphlet a reasonable fee to offset the costs of printing and distributing those copies. The commissioner [~~comptroller~~] at its discretion shall determine the number of copies that a person may receive without charge.

Sec. 5.07. PROPERTY TAX FORMS AND RECORDS SYSTEMS. (a) The commissioner [~~comptroller~~] shall prescribe the contents of all forms necessary for the administration of the property tax system

1 and on request shall furnish sufficient copies of model forms of
2 each type to the appropriate local officials. The commissioner
3 [~~comptroller~~] may require reimbursement for the costs of printing
4 and distributing the forms.

5 (b) The commissioner [~~comptroller~~] shall make the contents
6 of the forms uniform to the extent practicable but may prescribe or
7 approve additional or substitute forms for special circumstances.

8 (c) The commissioner [~~comptroller~~] shall also prescribe a
9 uniform record system to be used by all offices appraising property
10 for tax purposes.

11 Sec. 5.08. PROFESSIONAL AND TECHNICAL ASSISTANCE. (a) The
12 commissioner [~~comptroller~~] may provide professional and technical
13 assistance on request in appraising property, installing or
14 updating tax maps, purchasing equipment, developing recordkeeping
15 systems, or performing other appraisal activities. The
16 commissioner [~~comptroller~~] may also provide professional and
17 technical assistance on request to an appraisal review board. The
18 commissioner [~~comptroller~~] may require reimbursement for the costs
19 of providing the assistance.

20 (b) The commissioner [~~comptroller~~] may provide information
21 to and consult with persons actively engaged in appraising property
22 for tax purposes about any matter relating to property taxation
23 without charge.

24 Sec. 5.09. ANNUAL REPORTS. (a) The commissioner
25 [~~comptroller~~] shall publish an annual report of the operations of
26 the appraisal districts. The report shall include for each
27 appraisal district, each county, and each school district and may

1 include for other taxing units the total appraised values, assessed
2 values, and taxable values of taxable property by class of
3 property, the assessment ratio, and the tax rate.

4 (b) The commissioner [~~comptroller~~] shall deliver a copy of
5 each annual report published under Subsection (a) of this section
6 to the governor, the lieutenant governor, and each member of the
7 legislature.

8 Sec. 5.101. TECHNICAL ADVISORY COMMITTEE. (a) The board
9 [~~comptroller~~] shall appoint a technical advisory committee for the
10 purpose of providing professional and practical expertise to the
11 board [~~comptroller~~] and to review and comment on the methodology
12 used by the commissioner [~~comptroller~~] to conduct the annual
13 studies required by Section 51.21 and the ratio studies required by
14 Section 51.41 [~~Section 5.10 of this code and by Section 403.302,~~
15 ~~Government Code~~]. A member of the committee serves at the will of
16 the board [~~comptroller~~].

17 (b) The committee shall:

18 (1) review the methodology used by the commissioner
19 [~~comptroller~~] to conduct the studies described in Subsection (a);

20 (2) make an annual report to the commissioner
21 [~~comptroller~~] that includes the committee's findings and
22 recommendations relating to the methodology used to conduct the
23 studies; and

24 (3) meet as often as necessary to perform its duties,
25 but not less often than semiannually.

26 (c) The board [~~comptroller~~] shall appoint the committee to
27 provide for a balanced representation of the general public and of

1 professionals affiliated with the entities affected by the studies.

2 (d) Each member of the committee must have expertise
3 sufficient to determine the accuracy of the ~~[annual]~~ studies and
4 the appropriateness of the methods used to develop the findings of
5 the studies.

6 (e) The board ~~[comptroller]~~ shall specify the committee's
7 purpose, powers, and duties and shall require the committee to
8 report to the board ~~[comptroller]~~ in a manner specified by the board
9 ~~[comptroller]~~ relating to the committee's activities and the
10 results of its work.

11 (f) A member of the committee may receive compensatory per
12 diem for serving on the committee and is entitled to reimbursement
13 for transportation expenses and the per diem meals and lodging
14 allowance as provided for the board ~~[comptroller]~~ and for
15 commission members in the General Appropriations Act.

16 (g) The commissioner ~~[comptroller]~~ shall make the
17 committee's annual report available to the public on request.

18 Sec. 5.14. PUBLIC ACCESS, INFORMATION, AND COMPLAINTS. (a)
19 The board ~~[comptroller]~~ shall develop and implement policies that
20 provide the public with a reasonable opportunity to submit
21 information on any property tax issue under the jurisdiction of the
22 board ~~[comptroller]~~.

23 (b) The board ~~[comptroller]~~ shall prepare and maintain a
24 written plan that describes how a person who does not speak English
25 or who has a physical, mental, or developmental disability may be
26 provided reasonable access to the board's ~~[comptroller's]~~ programs.

27 (c) The board ~~[comptroller]~~ shall prepare information of

public interest describing the property tax functions of the office of the board ~~[comptroller]~~ and the board's ~~[comptroller's]~~ procedures by which complaints are filed with and resolved by the board ~~[comptroller]~~. The board ~~[comptroller]~~ shall make the information available to the public and appropriate state agencies.

(d) If a written complaint is filed with the board ~~[comptroller]~~ that the board ~~[comptroller]~~ has authority to resolve, the board ~~[comptroller]~~, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless notice would jeopardize an undercover investigation.

(e) The board ~~[comptroller]~~ shall keep an information file about each complaint filed with the board ~~[comptroller]~~ that the board ~~[comptroller]~~ has authority to resolve.

Sec. 5.16. ADMINISTRATIVE PROVISIONS. (a) The commissioner ~~[comptroller]~~ may inspect the records or other materials of an appraisal office or taxing unit, including the relevant records and materials in the possession or control of a consultant, advisor, or expert hired by the appraisal office or taxing unit, for the purpose of ~~[+]~~

~~[(1)]~~ establishing, reviewing, or evaluating the value of or an appraisal of any property ~~[+ or]~~

~~[(2) conducting a study, review, or audit required by Section 5.10 or 5.102 or by Section 403.302, Government Code].~~

(b) On request of the commissioner ~~[comptroller]~~, the chief appraiser or administrative head of the taxing unit shall produce the materials in the form and manner prescribed by the commissioner

1 ~~comptroller~~].

2 SECTION 13A.29. Section 6.025(a), Tax Code, is amended to
3 read as follows:

4 (a) The chief appraisers of two or more appraisal districts
5 that have boundaries that include any part of the same territory
6 shall enter into a written understanding that, with respect to the
7 property located in the territory in which each of the districts has
8 appraisal jurisdiction:

9 (1) permits each appraiser to have access to and use
10 information appropriate to appraisals, including a record of an
11 exemption application, rendition, or other property owner report;

12 (2) eliminates differences in the information in
13 appraisal records of the districts, including information relating
14 to ownership of property, the description of property, and the
15 physical characteristics of property; and

16 (3) contains the form of a written advisory prescribed
17 by the commissioner ~~comptroller~~ informing the owners of property
18 that reports and other documents required of the owners must be
19 filed with or sent to each appraisal district and that the owners
20 should consider sending any other document relating to the property
21 to each appraisal district.

22 SECTION 13A.30. Section 6.235(a), Tax Code, is amended to
23 read as follows:

24 (a) During each full term of office, a county
25 assessor-collector of a county with a population of 1,000,000 or
26 more shall complete 64 or more classroom hours of instruction that
27 relate to the duties of the office and that are accredited by the

1 Board of Tax Professional Examiners, the commissioner [~~division of~~
2 ~~the office of comptroller with responsibility for property taxes~~],
3 the division of the Texas Department of Transportation with
4 responsibility for motor vehicles, or the secretary of state as
5 continuing education credits for the office of county
6 assessor-collector.

7 SECTION 13A.31. Sections 6.28(b), (d), and (e), Tax Code,
8 are amended to read as follows:

9 (b) The bond for state taxes must be payable to the governor
10 and his successors in office in an amount equal to five percent of
11 the net state collections from motor vehicle sales and use taxes and
12 motor vehicle registration fees in the county during the year
13 ending August 31 preceding the date bond is given, except that the
14 amount of bond may not be less than \$2,500 or more than \$100,000. To
15 be effective, the bond must be approved by the commissioners court
16 of the county and the commissioner [~~state comptroller of public~~
17 ~~accounts~~].

18 (d) The commissioner [~~state comptroller of public accounts~~]
19 or the commissioners court of the county may require a new bond for
20 state taxes at any time. The commissioners court may require a new
21 bond for county taxes at any time. However, the total amount of
22 state bonds or county bonds required of an assessor-collector may
23 not exceed \$100,000 at one time. The commissioners court shall
24 suspend the assessor-collector from office and begin removal
25 proceedings if the assessor-collector [~~he~~] fails to give new bond
26 within a reasonable time after demand.

27 (e) The assessor-collector's official oath and bonds for

1 state and county taxes shall be recorded in the office of the county
2 clerk, and the county judge shall submit the bond for state taxes to
3 the commissioner [~~state comptroller of public accounts~~].

4 SECTION 13A.32. Section 6.412(c), Tax Code, is amended to
5 read as follows:

6 (c) A person is ineligible to serve on the appraisal review
7 board if the person is a member of the board of directors, an
8 officer, or employee of the appraisal district, an employee of the
9 commissioner [~~comptroller~~], or a member of the governing body,
10 officer, or employee of a taxing unit.

11 SECTION 13A.33. Section 11.11(b), Tax Code, is amended to
12 read as follows:

13 (b) Land owned by the Permanent University Fund is taxable
14 for county purposes. Any notice required by Section 25.19 of this
15 code shall be sent to the commissioner [~~comptroller~~], and the
16 commissioner [~~comptroller~~] shall appear in behalf of the state in
17 any protest or appeal relating to taxation of Permanent University
18 Fund land.

19 SECTION 13A.34. Section 11.182(f), Tax Code, as added by
20 Chapter 842, Acts of the 77th Legislature, Regular Session, 2001,
21 is relettered and amended to read as follows:

22 (i) [~~(f)~~] If any property owned by an organization
23 receiving an exemption under this section has been acquired or sold
24 during the preceding year, such organization shall file by March 31
25 of the following year with the chief appraiser in the county in
26 which the relevant property is located, on a form promulgated by the
27 commissioner [~~comptroller of public accounts~~], a list of such

1 properties acquired or sold during the preceding year.

2 SECTION 13A.35. Sections 11.252(c), (d), (i), and (j), Tax
3 Code, are amended to read as follows:

4 (c) The commissioner [~~comptroller~~] by rule shall establish
5 exemption application requirements and appropriate procedures to
6 determine whether a motor vehicle subject to a lease qualifies for
7 an exemption under Subsection (a).

8 (d) In connection with the requirements and procedures
9 under Subsection (c), the commissioner [~~comptroller~~] by rule shall
10 adopt a form to be completed by the lessee of a motor vehicle for
11 which the owner of the vehicle may apply for an exemption under
12 Subsection (a). The form shall require the lessee to provide the
13 lessee's name, address, and driver's license or personal
14 identification certificate number and to certify under oath that
15 the lessee does not hold the vehicle for the production of income
16 and that the vehicle is used primarily for activities that do not
17 involve the production of income. The commissioner [~~comptroller~~]
18 shall include on the form a notice of the penalties prescribed by
19 Section 37.10, Penal Code, for making a false statement on the form.

20 (i) In addition to the requirements of Subsections (c) and
21 (d), the commissioner [~~comptroller~~] by rule shall prescribe a
22 property report form to be completed by the lessor describing the
23 leased motor vehicles that the lessor owns. The property report
24 form shall require the lessor to list each leased vehicle the lessor
25 owns on January 1, to provide the year, make, model, and vehicle
26 identification number of each leased vehicle, and to provide the
27 name of the lessee, the address at which the vehicle is kept, and an

1 indication of whether the lessee has designated the vehicle as not
2 held for the production and not used for the production of income.

3 (j) The lessor shall provide the chief appraiser with the
4 completed property report form adopted by the commissioner
5 [~~comptroller~~] in the manner provided by Subchapter B, Chapter 22.

6 SECTION 13A.36. Section 11.26(e), Tax Code, is amended to
7 read as follows:

8 (e) For each school district in an appraisal district, the
9 chief appraiser shall determine the portion of the appraised value
10 of residence homesteads of the elderly on which school district
11 taxes are not imposed in a tax year because of the limitation on tax
12 increases imposed by this section. That portion is calculated by
13 determining the taxable value that, if multiplied by the tax rate
14 adopted by the school district for the tax year, would produce an
15 amount equal to the amount of tax that would have been imposed by
16 the school district on residence homesteads of the elderly if the
17 limitation on tax increases imposed by this section were not in
18 effect, but that was not imposed because of that limitation. The
19 chief appraiser shall determine that taxable value and certify it
20 to the commissioner [~~comptroller~~] as soon as practicable for each
21 tax year.

22 SECTION 13A.37. Section 11.27(b), Tax Code, is amended to
23 read as follows:

24 (b) The commissioner [~~comptroller~~], with the assistance of
25 the Texas Energy and Natural Resources Advisory Council, or its
26 successor, shall develop guidelines to assist local officials in
27 the administration of this section.

SECTION 13A.38. Section 11.43(f), Tax Code, is amended to read as follows:

(f) The commissioner [~~comptroller~~], in prescribing the contents of the application form for each kind of exemption, shall ensure that the form requires an applicant to furnish the information necessary to determine the validity of the exemption claim. The form must require an applicant to provide the applicant's name and driver's license number, personal identification certificate number, or social security account number. The commissioner [~~comptroller~~] shall include on the forms a notice of the penalties prescribed by Section 37.10, Penal Code, for making or filing an application containing a false statement. The commissioner [~~comptroller~~] shall include, on application forms for exemptions that do not have to be claimed annually, a statement explaining that the application need not be made annually and that if the exemption is allowed, the applicant has a duty to notify the chief appraiser when the applicant's entitlement to the exemption ends. In this subsection:

(1) "Driver's license" has the meaning assigned that term by Section 521.001, Transportation Code.

(2) "Personal identification certificate" means a certificate issued by the Department of Public Safety under Subchapter E, Chapter 521, Transportation Code.

SECTION 13A.39. Section 11.44(c), Tax Code, is amended to read as follows:

(c) The commissioner [~~comptroller~~] shall prescribe by rule the content of the explanation required by Subsection (a) [~~of this~~]

1 ~~section~~], and shall require that each exemption application form be
2 printed and prepared:

- 3 (1) as a separate form from any other form; or
4 (2) on the front of the form if the form also provides
5 for other information.

6 SECTION 13A.40. Section 21.03(b), Tax Code, is amended to
7 read as follows:

8 (b) The commissioner ~~[comptroller]~~ shall adopt rules:

- 9 (1) identifying the kinds of property subject to this
10 section; and
11 (2) establishing formulas for calculating the
12 proportion of total market value to be allocated to this state.

13 SECTION 13A.41. Sections 21.031(e) and (f), Tax Code, are
14 amended to read as follows:

15 (e) To receive an allocation of value under this section, a
16 property owner must apply for the allocation on a form that
17 substantially complies with the form prescribed by the commissioner
18 ~~[comptroller]~~. The application must be filed with the chief
19 appraiser for the district in which the property to which the
20 application applies is taxable before the approval of the appraisal
21 records by the appraisal review board as provided by Section 41.12
22 ~~[of this code]~~.

23 (f) The commissioner ~~[comptroller]~~ shall promulgate forms
24 and may adopt rules consistent with the provisions of this section.

25 SECTION 13A.42. Section 22.21, Tax Code, is amended to read
26 as follows:

27 Sec. 22.21. PUBLICIZING REQUIREMENTS. Each year the

1 commissioner [~~comptroller~~] and each chief appraiser shall
2 publicize in a manner reasonably designed to notify all property
3 owners the requirements of the law relating to filing rendition
4 statements and property reports and of the availability of forms.

5 SECTION 13A.43. Sections 22.24(a), (c), and (e), Tax Code,
6 are amended to read as follows:

7 (a) A person required to render property or to file a report
8 as provided by this chapter shall use a form that substantially
9 complies with the appropriate form prescribed or approved by the
10 commissioner [~~comptroller~~].

11 (c) The commissioner [~~comptroller~~] may prescribe or approve
12 different forms for different kinds of property but shall ensure
13 that each form requires a property owner to furnish the information
14 necessary to identify the property and to determine its ownership,
15 taxability, and situs. A form may not require a property owner to
16 furnish information not relevant to the appraisal of property for
17 tax purposes or to the assessment or collection of property taxes.

18 (e) To be valid, a rendition or report must be sworn to
19 before an officer authorized by law to administer an oath. The
20 commissioner [~~comptroller~~] may not prescribe or approve a rendition
21 or report form unless the form provides for the person filing the
22 form to swear that the information provided in the rendition or
23 report is true and accurate to the best of the person's knowledge
24 and belief. This subsection does not apply to a rendition or report
25 filed by the property owner, an employee of the property owner, or
26 an employee of a property owner on behalf of an affiliated entity of
27 the property owner.

1 SECTION 13A.44. Sections 22.27(a), (b), and (d), Tax Code,
2 are amended to read as follows:

3 (a) Rendition statements, real and personal property
4 reports, attachments to those statements and reports, and other
5 information the owner of property provides to the appraisal office
6 in connection with the appraisal of the property, including income
7 and expense information related to a property filed with an
8 appraisal office and information voluntarily disclosed to an
9 appraisal office or the commissioner [~~comptroller~~] about real or
10 personal property sales prices after a promise it will be held
11 confidential, are confidential and not open to public inspection.
12 The statements and reports and the information they contain about
13 specific real or personal property or a specific real or personal
14 property owner and information voluntarily disclosed to an
15 appraisal office about real or personal property sales prices after
16 a promise it will be held confidential may not be disclosed to
17 anyone other than an employee of the appraisal office who appraises
18 property except as authorized by Subsection (b) [~~of this section~~].

19 (b) Information made confidential by this section may be
20 disclosed:

21 (1) in a judicial or administrative proceeding
22 pursuant to a lawful subpoena;

23 (2) to the person who filed the statement or report or
24 the owner of property subject to the statement, report, or
25 information or to a representative of either authorized in writing
26 to receive the information;

27 (3) to the commissioner [~~comptroller~~] and the

1 commissioner's [~~comptroller's~~] employees authorized by the
2 commissioner [~~comptroller~~] in writing to receive the information or
3 to an assessor or a chief appraiser if requested in writing;

4 (4) in a judicial or administrative proceeding
5 relating to property taxation to which the person who filed the
6 statement or report or the owner of the property that is a subject
7 of the statement, report, or information is a party;

8 (5) for statistical purposes if in a form that does not
9 identify specific property or a specific property owner;

10 (6) if and to the extent the information is required to
11 be included in a public document or record that the appraisal office
12 is required to prepare or maintain; or

13 (7) to a taxing unit or its legal representative that
14 is engaged in the collection of delinquent taxes on the property
15 that is the subject of the information.

16 (d) No person who directly or indirectly provides
17 information to the commissioner [~~comptroller~~] or appraisal office
18 about real or personal property sales prices, either as set forth in
19 Subsection (a) [~~of this section~~] under a promise of
20 confidentiality, or otherwise, shall be liable to any other person
21 as the result of providing such information.

22 SECTION 13A.45. Section 23.121(a)(6), Tax Code, is amended
23 to read as follows:

24 (6) "Declaration" means the dealer's motor vehicle
25 inventory declaration form promulgated by the commissioner
26 [~~comptroller~~] as required by this section.

27 SECTION 13A.46. Section 23.121(f), Tax Code, is amended to

1 read as follows:

2 (f) The commissioner [~~comptroller~~] shall promulgate a form
3 entitled Dealer's Motor Vehicle Inventory Declaration. Except as
4 provided by Section 23.122(1) [~~of this code~~], not later than
5 February 1 of each year, or, in the case of a dealer who was not in
6 business on January 1, not later than 30 days after commencement of
7 business, each dealer shall file a declaration with the chief
8 appraiser and file a copy with the collector. For purposes of this
9 subsection, a dealer is presumed to have commenced business on the
10 date of issuance to the dealer of a dealer's general distinguishing
11 number as provided by Chapter 503, Transportation Code.
12 Notwithstanding the presumption created by this subsection, a chief
13 appraiser may, at the chief appraiser's [~~his or her~~] sole
14 discretion, designate as the date on which a dealer commenced
15 business a date other than the date of issuance to the dealer of a
16 dealer's general distinguishing number. The declaration is
17 sufficient to comply with this subsection if it sets forth the
18 following information:

19 (1) the name and business address of each location at
20 which the dealer owner conducts business;

21 (2) each of the dealer's general distinguishing
22 numbers issued by the Texas Department of Transportation;

23 (3) a statement that the dealer owner is the owner of a
24 dealer's motor vehicle inventory; and

25 (4) the market value of the dealer's motor vehicle
26 inventory for the current tax year as computed under Section
27 23.121(b) [~~of this code~~].

1 SECTION 13A.47. Section 23.122(a)(9), Tax Code, is amended
2 to read as follows:

3 (9) "Statement" means the Dealer's Motor Vehicle
4 Inventory Tax Statement filed on a form promulgated by the
5 commissioner [~~comptroller~~] as required by this section.

6 SECTION 13A.48. Section 23.122(e), Tax Code, is amended to
7 read as follows:

8 (e) The commissioner [~~comptroller~~] shall promulgate a form
9 entitled a Dealer's Motor Vehicle Inventory Tax Statement. A
10 dealer shall complete the form with respect to each motor vehicle
11 sold. A dealer may use no other form for that purpose. The
12 statement may include the information the commissioner
13 [~~comptroller~~] deems appropriate but shall include at least the
14 following:

- 15 (1) a description of the motor vehicle sold;
16 (2) the sales price of the motor vehicle;
17 (3) the unit property tax of the motor vehicle if any;
18 and
19 (4) the reason no unit property tax is assigned if no
20 unit property tax is assigned.

21 SECTION 13A.49. Section 23.123(c), Tax Code, is amended to
22 read as follows:

23 (c) Information made confidential by this section may be
24 disclosed:

- 25 (1) in a judicial or administrative proceeding
26 pursuant to a lawful subpoena;
27 (2) to the person who filed the declaration or

1 statement or to that person's representative authorized by the
2 person in writing to receive the information;

3 (3) to the commissioner [~~comptroller~~] or an employee
4 of the commissioner [~~comptroller~~] authorized by the commissioner
5 [~~comptroller~~] to receive the information;

6 (4) to a collector or chief appraiser;

7 (5) to a district attorney, criminal district attorney
8 or county attorney involved in the enforcement of a penalty imposed
9 pursuant to Section 23.121 or Section 23.122 [~~of this code~~];

10 (6) for statistical purposes if in a form that does not
11 identify specific property or a specific property owner;

12 (7) if and to the extent that the information is
13 required for inclusion in a public document or record that the
14 appraisal or collection office is required by law to prepare or
15 maintain; or

16 (8) to the Texas Department of Transportation for use
17 by that department in auditing compliance of its licensees with
18 appropriate provisions of applicable law.

19 SECTION 13A.50. Section 23.124(a)(6), Tax Code, is amended
20 to read as follows:

21 (6) "Declaration" means the dealer's vessel and
22 outboard motor inventory declaration form promulgated by the
23 commissioner [~~comptroller~~] as required by this section.

24 SECTION 13A.51. Section 23.124(f), Tax Code, is amended to
25 read as follows:

26 (f) The commissioner [~~comptroller~~] shall promulgate a form
27 entitled "Dealer's Vessel and Outboard Motor Inventory

1 Declaration." Except as provided by Section 23.125(1) [~~of this~~
2 ~~code~~], not later than February 1 of each year or, in the case of a
3 dealer who was not in business on January 1, not later than 30 days
4 after commencement of business, each dealer shall file a
5 declaration with the chief appraiser and file a copy with the
6 collector. The declaration is sufficient to comply with this
7 subsection if it sets forth the following information:

8 (1) the name and business address of each location at
9 which the dealer owner conducts business;

10 (2) each of the dealer's and manufacturer's numbers
11 issued by the Parks and Wildlife Department;

12 (3) a statement that the dealer owner is the owner of a
13 dealer's vessel and outboard motor inventory; and

14 (4) the market value of the dealer's vessel and
15 outboard motor inventory for the current tax year as computed under
16 Subsection (b) of this section.

17 SECTION 13A.52. Section 23.1241(a)(4), Tax Code, is amended
18 to read as follows:

19 (4) "Declaration" means a dealer's heavy equipment
20 inventory declaration form adopted by the commissioner
21 [~~comptroller~~] under this section.

22 SECTION 13A.53. Section 23.1241(f), Tax Code, is amended to
23 read as follows:

24 (f) The commissioner [~~comptroller~~] by rule shall adopt a
25 dealer's heavy equipment inventory declaration form. Except as
26 provided by Section 23.1242(k), not later than February 1 of each
27 year, or, in the case of a dealer who was not in business on January

1 1, not later than 30 days after commencement of business, each
2 dealer shall file a declaration with the chief appraiser and file a
3 copy with the collector. The declaration is sufficient to comply
4 with this subsection if it sets forth:

5 (1) the name and business address of each location at
6 which the declarant conducts business;

7 (2) a statement that the declarant is the owner of a
8 dealer's heavy equipment inventory; and

9 (3) the market value of the declarant's heavy
10 equipment inventory for the current tax year as computed under
11 Subsection (b).

12 SECTION 13A.54. Section 23.1242(a)(3), Tax Code, is amended
13 to read as follows:

14 (3) "Statement" means the dealer's heavy equipment
15 inventory tax statement filed on a form adopted by the commissioner
16 [~~comptroller~~] under this section.

17 SECTION 13A.55. Section 23.1242(e), Tax Code, is amended to
18 read as follows:

19 (e) The commissioner [~~comptroller~~] by rule shall adopt a
20 dealer's heavy equipment inventory tax statement form. A dealer
21 shall complete the form with respect to each item of heavy equipment
22 sold. A dealer may use no other form for that purpose. The
23 statement may include the information the commissioner
24 [~~comptroller~~] considers appropriate but shall include at least the
25 following:

26 (1) a description of the item of heavy equipment sold,
27 including any unique identification or serial number affixed to the

1 item by the manufacturer;

2 (2) the sales price of the item of heavy equipment;

3 (3) the unit property tax of the item of heavy
4 equipment, if any; and

5 (4) the reason no unit property tax is assigned if no
6 unit property tax is assigned.

7 SECTION 13A.56. Section 23.125(a)(9), Tax Code, is amended
8 to read as follows:

9 (9) "Statement" means the dealer's vessel and outboard
10 motor inventory tax statement filed on a form promulgated by the
11 commissioner [~~comptroller~~] as required by this section.

12 SECTION 13A.57. Section 23.125(e), Tax Code, is amended to
13 read as follows:

14 (e) The commissioner [~~comptroller~~] shall promulgate a form
15 entitled "Dealer's Vessel and Outboard Motor Inventory Tax
16 Statement." A dealer shall complete the form with respect to each
17 vessel and outboard motor sold. A dealer may use no other form for
18 that purpose. The statement may include the information the
19 commissioner [~~comptroller~~] deems appropriate but shall include at
20 least the following:

21 (1) a description of the vessel or outboard motor
22 sold;

23 (2) the sales price of the vessel or outboard motor;

24 (3) the unit property tax of the vessel or outboard
25 motor, if any; and

26 (4) the reason no unit property tax is assigned if no
27 unit property tax is assigned.

1 SECTION 13A.58. Section 23.126(c), Tax Code, is amended to
2 read as follows:

3 (c) Information made confidential by this section may be
4 disclosed:

5 (1) in a judicial or administrative proceeding
6 pursuant to a lawful subpoena;

7 (2) to the person who filed the declaration or
8 statement or to that person's representative authorized by the
9 person in writing to receive the information;

10 (3) to the commissioner [~~comptroller~~] or an employee
11 of the commissioner [~~comptroller~~] authorized by the commissioner
12 [~~comptroller~~] to receive the information;

13 (4) to a collector or chief appraiser;

14 (5) to a district attorney, criminal district
15 attorney, or county attorney involved in the enforcement of a
16 penalty imposed pursuant to Section 23.124 or Section 23.125 [~~of~~
17 ~~this code~~];

18 (6) for statistical purposes if in a form that does not
19 identify specific property or a specific property owner; or

20 (7) if and to the extent that the information is
21 required for inclusion in a document or record that the appraisal or
22 collection office is required by law to prepare or maintain.

23 SECTION 13A.59. Section 23.127(a)(3), Tax Code, is amended
24 to read as follows:

25 (3) "Declaration" means a retail manufactured housing
26 inventory declaration form adopted by the commissioner
27 [~~comptroller~~] under this section.

SECTION 13A.60. Section 23.127(f), Tax Code, is amended to read as follows:

(f) The commissioner [~~comptroller~~] by rule shall adopt a form entitled "Retail Manufactured Housing Inventory Declaration." Except as provided by Section 23.128(k), not later than February 1 of each year or, in the case of a retailer who was not in business on January 1, not later than the 30th day after the date the retailer commences business, each retailer shall file a declaration with the chief appraiser and file a copy with the collector. The declaration is sufficient to comply with this subsection if it sets forth the following information:

(1) the name and business address of each location at which the retailer conducts business;

(2) the retailer's license number issued by the department;

(3) a statement that the retailer is the owner of a retail manufactured housing inventory; and

(4) the market value of the retailer's manufactured housing inventory for the current tax year as computed under Subsection (b).

SECTION 13A.61. Section 23.128(a)(4), Tax Code, is amended to read as follows:

(4) "Statement" means the retail manufactured housing inventory tax statement filed on a form adopted by the commissioner [~~comptroller~~] under this section.

SECTION 13A.62. Section 23.128(e), Tax Code, is amended to read as follows:

1 (e) The commissioner [~~comptroller~~] by rule shall adopt a
2 form entitled "Retail Manufactured Housing Inventory Tax
3 Statement." A retailer shall complete the form with respect to each
4 unit of manufactured housing sold. A retailer may not use another
5 form for that purpose. The statement shall include:

6 (1) a description of the unit of manufactured housing
7 sold, including any unique identification or serial number affixed
8 to the unit by the manufacturer;

9 (2) the sales price of the unit of manufactured
10 housing;

11 (3) any unit property tax of the unit of manufactured
12 housing;

13 (4) the reason a unit property tax is not assigned if
14 that is the case; and

15 (5) any other information the commissioner
16 [~~comptroller~~] considers appropriate.

17 SECTION 13A.63. Section 23.175(b), Tax Code, is amended to
18 read as follows:

19 (b) The commissioner [~~comptroller~~] by rule shall develop
20 and distribute to each appraisal office appraisal manuals that
21 specify methods and procedures to discount future income from the
22 sale of oil or gas from the interest to present value.

23 SECTION 13A.64. Sections 23.41(b) and (e), Tax Code, are
24 amended to read as follows:

25 (b) The commissioner [~~comptroller~~] shall promulgate rules
26 specifying the methods to apply and the procedures to use in
27 appraising land designated for agricultural use.

1 (e) Improvements other than appurtenances to the land, the
2 mineral estate, and all land used for residential purposes and for
3 processing harvested agricultural products are appraised
4 separately at market value. Riparian water rights, private roads,
5 dams, reservoirs, water wells, and canals, ditches, terraces, and
6 similar reshaping of or additions to the soil for agricultural
7 purposes are appurtenances to the land, and the effect of each on
8 the value of the land for agricultural use shall be considered in
9 appraising the land. However, the commissioner [~~comptroller~~] shall
10 provide that in calculating average net income from land a
11 deduction from income be allowed for an appurtenance subject to
12 depreciation or depletion.

13 SECTION 13A.65. Section 23.43(d), Tax Code, is amended to
14 read as follows:

15 (d) The commissioner [~~comptroller~~] in prescribing the
16 contents of the application forms shall ensure that each form
17 requires a claimant to furnish the information necessary to
18 determine the validity of the claim. The commissioner
19 [~~comptroller~~] shall require that the form permit a claimant who has
20 previously been allowed an agricultural designation to indicate
21 that previously reported information has not changed and to supply
22 only the eligibility information not previously reported.

23 SECTION 13A.66. Section 23.45(b), Tax Code, is amended to
24 read as follows:

25 (b) Information made confidential by this section may be
26 disclosed:

27 (1) in a judicial or administrative proceeding

1 pursuant to a lawful subpoena;

2 (2) to the person who filed the application or to his
3 representative authorized in writing to receive the information;

4 (3) to the commissioner [~~comptroller~~] and his
5 employees authorized by him in writing to receive the information
6 or to an assessor or a chief appraiser if requested in writing;

7 (4) in a judicial or administrative proceeding
8 relating to property taxation to which the person who filed the
9 application is a party;

10 (5) for statistical purposes if in a form that does not
11 identify specific property or a specific property owner; or

12 (6) if and to the extent the information is required to
13 be included in a public document or record that the appraisal office
14 is required to prepare or maintain.

15 SECTION 13A.67. Section 23.52(d), Tax Code, is amended to
16 read as follows:

17 (d) The commissioner [~~comptroller~~] by rule shall develop
18 and distribute to each appraisal office appraisal manuals setting
19 forth this method of appraising qualified open-space land, and each
20 appraisal office shall use the appraisal manuals in appraising
21 qualified open-space land. The commissioner [~~comptroller~~] by rule
22 shall develop and the appraisal office shall enforce procedures to
23 verify that land meets the conditions contained in Subdivision (1)
24 of Section 23.51 [~~of this code~~]. The rules, before taking effect,
25 must be approved by a majority vote of a committee comprised of the
26 following officials or their designees: the commissioner, the
27 governor, the comptroller, the attorney general, and the

1 agriculture commissioner[, ~~and the Commissioner of the General Land~~
2 ~~Office~~].

3 SECTION 13A.68. Section 23.521(a), Tax Code, is amended to
4 read as follows:

5 (a) The Parks and Wildlife Department, with the assistance
6 of the commissioner [~~comptroller~~], shall develop standards for
7 determining whether land qualifies under Section 23.51(7) for
8 appraisal under this subchapter. The commissioner [~~comptroller~~] by
9 rule shall adopt the standards developed by the Parks and Wildlife
10 Department and distribute those rules to each appraisal district.
11 On request of the Parks and Wildlife Department, the Texas
12 Agricultural Extension Service shall assist the department in
13 developing the standards.

14 SECTION 13A.69. Sections 23.54(b) and (c), Tax Code, are
15 amended to read as follows:

16 (b) To be valid, the application must:

17 (1) be on a form provided by the appraisal office and
18 prescribed by the commissioner [~~comptroller~~]; and

19 (2) contain the information necessary to determine the
20 validity of the claim.

21 (c) The commissioner [~~comptroller~~] shall include on the
22 form a notice of the penalties prescribed by Section 37.10, Penal
23 Code, for making or filing an application containing a false
24 statement. The commissioner [~~comptroller~~], in prescribing the
25 contents of the application form, shall require that the form
26 permit a claimant who has previously been allowed appraisal under
27 this subchapter to indicate that previously reported information

1 has not changed and to supply only the eligibility information not
2 previously reported.

3 SECTION 13A.70. Section 23.73(b), Tax Code, is amended to
4 read as follows:

5 (b) The commissioner [~~comptroller~~] by rule shall develop
6 and distribute to each appraisal office appraisal manuals setting
7 forth this method of appraising qualified timber land, and each
8 appraisal office shall use the appraisal manuals in appraising
9 qualified timber land. The commissioner [~~comptroller~~] by rule
10 shall develop and the appraisal office shall enforce procedures to
11 verify that land meets the conditions contained in Section 23.72
12 [~~of this code~~]. The rules, before taking effect, must be approved
13 by majority vote of a committee comprised of the following
14 officials or their designees: the commissioner, the governor, the
15 comptroller, the attorney general, and the agriculture
16 commissioner [~~, and the Commissioner of the General Land Office~~].

17 SECTION 13A.71. Sections 23.75(b) and (c), Tax Code, are
18 amended to read as follows:

19 (b) To be valid, the application must:

20 (1) be on a form provided by the appraisal office and
21 prescribed by the commissioner [~~comptroller~~]; and

22 (2) contain the information necessary to determine the
23 validity of the claim.

24 (c) The commissioner [~~comptroller~~] shall include on the
25 form a notice of the penalties prescribed by Section 37.10, Penal
26 Code, for making or filing an application containing a false
27 statement. The commissioner [~~comptroller~~], in prescribing the

1 contents of the application form, shall require that the form
2 permit a claimant who has previously been allowed appraisal under
3 this subchapter to indicate that previously reported information
4 has not changed and to supply only the eligibility information not
5 previously reported.

6 SECTION 13A.72. Section 23.83(e), Tax Code, is amended to
7 read as follows:

8 (e) The commissioner [~~comptroller~~] shall promulgate rules
9 specifying the methods to apply and the procedures to use in
10 appraising land under this subchapter.

11 SECTION 13A.73. Section 23.84(f), Tax Code, is amended to
12 read as follows:

13 (f) The commissioner [~~comptroller~~] in prescribing the
14 contents of the application forms shall ensure that each form
15 requires a claimant to furnish the information necessary to
16 determine the validity of the claim and that the form requires the
17 claimant to state that the land for which the claimant [~~he~~] claims
18 appraisal under this subchapter will be used exclusively for
19 recreational, park, or scenic uses in the current year.

20 SECTION 13A.74. Section 23.93(e), Tax Code, is amended to
21 read as follows:

22 (e) The commissioner [~~comptroller~~] shall promulgate rules
23 specifying the methods to apply and the procedures to use in
24 appraising property under this subchapter.

25 SECTION 13A.75. Section 23.94(f), Tax Code, is amended to
26 read as follows:

27 (f) The commissioner [~~comptroller~~] in prescribing the

1 contents of the application forms shall ensure that each form
2 requires a claimant to furnish the information necessary to
3 determine the validity of the claim and that the form requires the
4 claimant to state that the airport property for which the claimant
5 ~~[he]~~ claims appraisal under this subchapter will be used
6 exclusively as public access airport property in the current year.

7 SECTION 13A.76. Sections 23.9804(b), (c), and (d), Tax
8 Code, are amended to read as follows:

9 (b) To be valid, an application for appraisal under Section
10 23.9802(a) must:

11 (1) be on a form provided by the appraisal office and
12 prescribed by the commissioner ~~[comptroller]~~;

13 (2) provide evidence that the land qualifies for
14 designation as an aesthetic management zone, critical wildlife
15 habitat zone, or streamside management zone;

16 (3) specify the location of the proposed zone and the
17 quantity of land, in acres, in the proposed zone; and

18 (4) contain other information necessary to determine
19 the validity of the claim.

20 (c) To be valid, an application for appraisal under Section
21 23.9802(b) must:

22 (1) be on a form provided by the appraisal office and
23 prescribed by the commissioner ~~[comptroller]~~;

24 (2) provide evidence that the land on which the timber
25 was harvested was appraised under Subchapter E in the year in which
26 the timber was harvested;

27 (3) provide evidence that all of the land has been

1 regenerated in compliance with Section 23.9802(b)(2); and

2 (4) contain other information necessary to determine
3 the validity of the claim.

4 (d) The commissioner [~~comptroller~~] shall include on the
5 form a notice of the penalties prescribed by Section 37.10, Penal
6 Code, for making or filing an application containing a false
7 statement. The commissioner [~~comptroller~~], in prescribing the
8 contents of the application form, shall require that the form
9 permit a claimant who has previously been allowed appraisal under
10 this subchapter to indicate that the previously reported
11 information has not changed and to supply only the eligibility
12 information not previously reported.

13 SECTION 13A.77. Section 24.32(c), Tax Code, is amended to
14 read as follows:

15 (c) A report required by this section must be on a form
16 prescribed by the commissioner [~~comptroller~~]. In prescribing the
17 form, the commissioner [~~comptroller~~] shall ensure that it requires
18 the information necessary to determine market value of rolling
19 stock used in this state.

20 SECTION 13A.78. Section 24.34(b), Tax Code, is amended to
21 read as follows:

22 (b) The commissioner [~~comptroller~~] shall adopt rules
23 establishing formulas for interstate allocation of the value of
24 railroad rolling stock.

25 SECTION 13A.79. Sections 24.36, 24.365, 24.37, and 24.38,
26 Tax Code, are amended to read as follows:

27 Sec. 24.36. CERTIFICATION TO COMMISSIONER [~~COMPTROLLER~~].

1 On approval of the appraised value of the rolling stock as provided
2 by Chapter 41 [~~of this code~~], the chief appraiser shall certify to
3 the commissioner [~~comptroller~~] the amount of market value allocated
4 to this state for each owner whose rolling stock is appraised in the
5 county and the name and business address of each owner.

6 Sec. 24.365. CORRECTION OF CERTIFIED AMOUNT. (a) A chief
7 appraiser who discovers that the chief appraiser's certification to
8 the commissioner [~~comptroller~~] of the amount of the market value of
9 rolling stock allocated to this state under Section 24.36 was
10 incomplete or incorrect shall immediately certify the correct
11 amount of that market value to the commissioner [~~comptroller~~].

12 (b) As soon as practicable after the commissioner
13 [~~comptroller~~] receives the correct certification from the chief
14 appraiser, the commissioner [~~comptroller~~] shall certify to the
15 county assessor-collector for each affected county the information
16 required by Section 24.38 as corrected.

17 Sec. 24.37. INTRASTATE APPORTIONMENT. The commissioner
18 [~~comptroller~~] shall apportion the appraised value of each owner's
19 rolling stock to each county in which the railroad using it operates
20 according to the ratio the mileage of road owned by the railroad in
21 the county bears to the total mileage of road the railroad owns in
22 this state.

23 Sec. 24.38. CERTIFICATION OF APPORTIONED VALUE. Before
24 August 1, the commissioner [~~comptroller~~] shall certify to the
25 county assessor-collector for each county in which a railroad
26 operates:

27 (1) the county's apportioned amount of the market

1 value of each owner's rolling stock; and

2 (2) the name and business address of each owner.

3 SECTION 13A.80. Section 24.40(a), Tax Code, is amended to
4 read as follows:

5 (a) If a chief appraiser discovers that rolling stock used
6 in this state and subject to appraisal by the chief appraiser ~~[him]~~
7 has not been appraised and apportioned to the counties in one of the
8 two preceding years, he shall appraise the property as of January 1
9 for each year it was omitted, submit the appraisal for review and
10 protest, and certify the approved value to the commissioner
11 ~~[comptroller]~~.

12 SECTION 13A.81. Section 25.011(b), Tax Code, is amended to
13 read as follows:

14 (b) The record for each type of specially appraised property
15 must be maintained in a separate document for each 12-month period
16 beginning June 1. The document must include the name of at least one
17 owner of the property, the acreage of the property, and other
18 information sufficient to identify the property as required by the
19 commissioner ~~[comptroller]~~. All entries in each document must be
20 kept in alphabetical order according to the last name of each owner
21 whose name is part of the record.

22 SECTION 13A.82. Section 25.02(a), Tax Code, is amended to
23 read as follows:

24 (a) The appraisal records shall be in the form prescribed by
25 the commissioner ~~[comptroller]~~ and shall include:

26 (1) the name and address of the owner or, if the name
27 or address is unknown, a statement that it is unknown;

1 (2) real property;

2 (3) separately taxable estates or interests in real
3 property, including taxable possessory interests in exempt real
4 property;

5 (4) personal property;

6 (5) the appraised value of land and, if the land is
7 appraised as provided by Subchapter C, D, E, or H, Chapter 23, the
8 market value of the land;

9 (6) the appraised value of improvements to land;

10 (7) the appraised value of a separately taxable estate
11 or interest in land;

12 (8) the appraised value of personal property;

13 (9) the kind of any partial exemption the owner is
14 entitled to receive, whether the exemption applies to appraised or
15 assessed value, and, in the case of an exemption authorized by
16 Section 11.23, the amount of the exemption;

17 (10) the tax year to which the appraisal applies; and

18 (11) an identification of each taxing unit in which
19 the property is taxable.

20 SECTION 13A.83. Section 25.025(b), Tax Code, is amended to
21 read as follows:

22 (b) Information in appraisal records under Section 25.02 is
23 confidential and is available only for the official use of the
24 appraisal district, this state, the commissioner [~~comptroller~~],
25 and taxing units and political subdivisions of this state if:

26 (1) the information identifies the home address of a
27 named individual to whom this section applies; and

1 (2) the individual chooses to restrict public access
2 to the information on the form prescribed for that purpose by the
3 commissioner [~~comptroller~~] under Section 5.07.

4 SECTION 13A.84. Section 25.026(b), Tax Code, is amended to
5 read as follows:

6 (b) Information in appraisal records under Section 25.02 is
7 confidential and is available only for the official use of the
8 appraisal district, this state, the commissioner [~~comptroller~~],
9 and taxing units and political subdivisions of this state if the
10 information identifies the address of a family violence shelter
11 center or a sexual assault program.

12 SECTION 13A.85. Section 25.03(b), Tax Code, is amended to
13 read as follows:

14 (b) The commissioner [~~comptroller~~] may adopt rules
15 establishing minimum standards for descriptions of property.

16 SECTION 13A.86. Sections 25.19(i) and (j), Tax Code, are
17 amended to read as follows:

18 (i) Delivery with a notice required by Subsection (a) or (g)
19 of a copy of the pamphlet published by the commissioner
20 [~~comptroller~~] under Section 5.06 or a copy of the notice published
21 by the chief appraiser under Section 41.70 is sufficient to comply
22 with the requirement that the notice include the information
23 specified by Subsection (b)(7) or (g)(3), as applicable.

24 (j) The chief appraiser shall include with a notice required
25 by Subsection (a) or (g):

26 (1) a copy of a notice of protest form as prescribed by
27 the commissioner [~~comptroller~~] under Section 41.44(d); and

1 (2) instructions for completing and mailing the form
2 to the appraisal review board and requesting a hearing on the
3 protest.

4 SECTION 13A.87. Section 25.23(b), Tax Code, is amended to
5 read as follows:

6 (b) Supplemental appraisal records shall be in the form
7 prescribed by the commissioner [~~comptroller~~] and shall include the
8 items required by Section 25.02 [~~of this code~~].

9 SECTION 13A.88. Section 26.01(b), Tax Code, is amended to
10 read as follows:

11 (b) When a chief appraiser submits an appraisal roll for
12 county taxes to a county assessor-collector, the chief appraiser
13 also shall certify the appraisal district appraisal roll to the
14 commissioner [~~comptroller~~]. However, the commissioner
15 [~~comptroller~~] by rule may provide for submission of only a summary
16 of the appraisal roll. The chief appraiser shall certify the
17 district appraisal roll or the summary of that roll in the form and
18 manner prescribed by the commissioner's [~~comptroller's~~] rule.

19 SECTION 13A.89. Section 26.04(e), Tax Code, is amended to
20 read as follows:

21 (e) By August 7 or as soon thereafter as practicable, the
22 designated officer or employee shall submit the rates to the
23 governing body. The designated officer or employee [~~He~~] shall
24 deliver by mail to each property owner in the unit or publish in a
25 newspaper in the form prescribed by the commissioner [~~comptroller~~]:

26 (1) the effective tax rate, the rollback tax rate, and
27 an explanation of how they were calculated;

1 (2) the estimated amount of interest and sinking fund
2 balances and the estimated amount of maintenance and operation or
3 general fund balances remaining at the end of the current fiscal
4 year that are not encumbered with or by corresponding existing debt
5 obligation;

6 (3) a schedule of the unit's debt obligations showing:

7 (A) the amount of principal and interest that
8 will be paid to service the unit's debts in the next year from
9 property tax revenue, including payments of lawfully incurred
10 contractual obligations providing security for the payment of the
11 principal of and interest on bonds and other evidences of
12 indebtedness issued on behalf of the unit by another political
13 subdivision and, if the unit is created under Section 52, Article
14 III, or Section 59, Article XVI, Texas Constitution, payments on
15 debts that the unit anticipates to incur in the next calendar year;

16 (B) the amount by which taxes imposed for debt
17 are to be increased because of the unit's anticipated collection
18 rate; and

19 (C) the total of the amounts listed in Paragraphs
20 (A)-(B), less any amount collected in excess of the previous year's
21 anticipated collections certified as provided in Subsection (b);

22 (4) the amount of additional sales and use tax revenue
23 anticipated in calculations under Section 26.041;

24 (5) a statement that the adoption of a tax rate equal
25 to the effective tax rate would result in an increase or decrease,
26 as applicable, in the amount of taxes imposed by the unit as
27 compared to last year's levy, and the amount of the increase or

1 decrease;

2 (6) in the year that a taxing unit calculates an
3 adjustment under Subsection (i) or (j), a schedule that includes
4 the following elements:

5 (A) the name of the unit discontinuing the
6 department, function, or activity;

7 (B) the amount of property tax revenue spent by
8 the unit listed under Paragraph (A) to operate the discontinued
9 department, function, or activity in the 12 months preceding the
10 month in which the calculations required by this chapter are made;
11 and

12 (C) the name of the unit that operates a distinct
13 department, function, or activity in all or a majority of the
14 territory of a taxing unit that has discontinued operating the
15 distinct department, function, or activity; and

16 (7) in the year following the year in which a taxing
17 unit raised its rollback rate as required by Subsection (j), a
18 schedule that includes the following elements:

19 (A) the amount of property tax revenue spent by
20 the unit to operate the department, function, or activity for which
21 the taxing unit raised the rollback rate as required by Subsection
22 (j) for the 12 months preceding the month in which the calculations
23 required by this chapter are made; and

24 (B) the amount published by the unit in the
25 preceding tax year under Subdivision (6)(B).

26 SECTION 13A.90. Section 26.06(f), Tax Code, is amended to
27 read as follows:

1 (f) The commissioner [~~comptroller~~] by rule shall prescribe
2 the language and format to be used in the part of the notice
3 required by Subsection (b)(2). A notice under Subsection (b) is not
4 valid if it does not substantially conform to the language and
5 format prescribed by the commissioner [~~comptroller~~] under this
6 subsection.

7 SECTION 13A.91. Section 31.01(c), Tax Code, is amended to
8 read as follows:

9 (c) The tax bill or a separate statement accompanying the
10 tax bill shall:

11 (1) identify the property subject to the tax;
12 (2) state the appraised value, assessed value, and
13 taxable value of the property;

14 (3) if the property is land appraised as provided by
15 Subchapter C, D, E, or H, Chapter 23, state the market value and the
16 taxable value for purposes of deferred or additional taxation as
17 provided by Section 23.46, 23.55, 23.76, or 23.9807, as applicable;

18 (4) state the assessment ratio for the unit;

19 (5) state the type and amount of any partial exemption
20 applicable to the property, indicating whether it applies to
21 appraised or assessed value;

22 (6) state the total tax rate for the unit;

23 (7) state the amount of tax due, the due date, and the
24 delinquency date;

25 (8) explain the payment option and discounts provided
26 by Sections 31.03 and 31.05, if available to the unit's taxpayers,
27 and state the date on which each of the discount periods provided by

1 Section 31.05 concludes, if the discounts are available;

2 (9) state the rates of penalty and interest imposed
3 for delinquent payment of the tax;

4 (10) include the name and telephone number of the
5 assessor for the unit and, if different, of the collector for the
6 unit; and

7 (11) include any other information required by the
8 commissioner [~~comptroller~~].

9 SECTION 13A.92. Section 31.032(f), Tax Code, is amended to
10 read as follows:

11 (f) The commissioner [~~comptroller~~] shall adopt rules to
12 implement this section.

13 SECTION 13A.93. Section 31.075(a), Tax Code, is amended to
14 read as follows:

15 (a) At the request of a property owner or a property owner's
16 agent, the collector for a taxing unit shall issue a receipt showing
17 the taxable value and the amount of tax imposed by the unit on the
18 property in one or more tax years for which the information is
19 requested, the tax rate for each of those tax years, and the amount
20 of tax paid in each of those years. The receipt must describe the
21 property in the manner prescribed by the commissioner
22 [~~comptroller~~].

23 SECTION 13A.94. Section 31.11(c), Tax Code, is amended to
24 read as follows:

25 (c) An application for a refund must be made within three
26 years after the date of the payment or the taxpayer waives the right
27 to the refund. A taxpayer may apply for a refund by filing:

1 (1) an application on a form prescribed by the
2 commissioner [~~comptroller~~] by rule; or

3 (2) a written request that includes information
4 sufficient to enable the auditor for the taxing unit and, if
5 applicable, the governing body of the taxing unit to determine
6 whether the taxpayer is entitled to the refund.

7 SECTION 13A.95. Section 33.43(e), Tax Code, is amended to
8 read as follows:

9 (e) The commissioner [~~comptroller~~] shall prepare forms for
10 petitions initiating suits to collect delinquent taxes. An
11 attorney representing a taxing unit may use the forms or develop a
12 [~~his own~~] form.

13 SECTION 13A.96. Section 41.44(d), Tax Code, is amended to
14 read as follows:

15 (d) A notice of protest is sufficient if it identifies the
16 protesting property owner, including a person claiming an ownership
17 interest in the property even if that person is not listed on the
18 appraisal records as an owner of the property, identifies the
19 property that is the subject of the protest, and indicates apparent
20 dissatisfaction with some determination of the appraisal office.
21 The notice need not be on an official form, but the commissioner
22 [~~comptroller~~] shall prescribe a form that provides for more detail
23 about the nature of the protest. The form must permit a property
24 owner to include each property in the appraisal district that is the
25 subject of a protest. The commissioner [~~comptroller~~], each
26 appraisal office, and each appraisal review board shall make the
27 forms readily available and deliver one to a property owner on

request.

SECTION 13A.97. Sections 41.45(k) and (l), Tax Code, are amended to read as follows:

(k) The commissioner [~~comptroller~~] shall prescribe a standard form for an affidavit offered under Subsection (b). Each appraisal district shall make copies of the affidavit form available to property owners without charge.

(l) A property owner is not required to use the affidavit form prescribed by the commissioner [~~comptroller~~] when offering an affidavit under Subsection (b).

SECTION 13A.98. Section 41.461(a), Tax Code, is amended to read as follows:

(a) At least 14 days before a hearing on a protest, the chief appraiser shall:

(1) deliver a copy of the pamphlet prepared by the commissioner [~~comptroller~~] under Section 5.06(a) to the property owner initiating the protest if the owner is not represented by another person [~~representing himself~~], or to an agent representing the owner if requested by the agent;

(2) inform the property owner that the owner or the agent of the owner may inspect and may obtain a copy of the data, schedules, formulas, and all other information the chief appraiser plans to introduce at the hearing to establish any matter at issue; and

(3) deliver a copy of the hearing procedures established by the appraisal review board under Section 41.66 to the property owner.

SECTION 13A.99. Sections 41.65 and 41.68, Tax Code, are amended to read as follows:

Sec. 41.65. REQUEST FOR STATE ASSISTANCE. The appraisal review board may request the commissioner [~~comptroller~~] to assist in determining the accuracy of appraisals by the appraisal office or to provide other professional assistance. The appraisal office shall reimburse the costs of providing assistance if the commissioner [~~comptroller~~] requests reimbursement.

Sec. 41.68. RECORD OF PROCEEDING. The appraisal review board shall keep a record of its proceedings in the form and manner prescribed by the commissioner [~~comptroller~~].

SECTION 13A.100. Section 41.70(a), Tax Code, is amended to read as follows:

(a) On or after May 1 but not later than May 15, the chief appraiser shall publish notice of the manner in which a protest under this chapter may be brought by a property owner. The notice must describe how to initiate a protest and must describe the deadlines for filing a protest. The notice must also describe the manner in which an order of the appraisal review board may be appealed. The commissioner [~~comptroller~~] by rule shall adopt minimum standards for the form and content of the notice required by this section.

SECTION 13A.101. Sections 42.01, 42.03, and 42.05, Tax Code, are amended to read as follows:

Sec. 42.01. RIGHT OF APPEAL BY PROPERTY OWNER. A property owner is entitled to appeal:

(1) an order of the appraisal review board

determining:

(A) a protest by the property owner as provided by Subchapter C of Chapter 41; or

(B) a determination of an appraisal review board on a motion filed under Section 25.25; or

(2) an order of the commissioner ~~[comptroller]~~ issued as provided by Subchapter B, Chapter 24, apportioning among the counties the appraised value of railroad rolling stock owned by the property owner.

Sec. 42.03. RIGHT OF APPEAL BY COUNTY. A county may appeal the order of the commissioner ~~[comptroller]~~ issued as provided by Subchapter B, Chapter 24 of this code apportioning among the counties the appraised value of railroad rolling stock.

Sec. 42.05. COMMISSIONER ~~[COMPTROLLER]~~ AS PARTY. The commissioner ~~[comptroller]~~ is an opposing party in an appeal by:

(1) a property owner of an order of the commissioner ~~[comptroller]~~ determining a protest of the appraisal, interstate allocation, or intrastate apportionment of transportation business intangibles; or

(2) a county or a property owner of an order of the commissioner ~~[comptroller]~~ apportioning among the counties the appraised value of railroad rolling stock.

SECTION 13A.102. Sections 42.06(a), (b), and (c), Tax Code, are amended to read as follows:

(a) To exercise the party's right to appeal an order of an appraisal review board, a party other than a property owner must file written notice of appeal within 15 days after the date the

1 party receives the notice required by Section 41.47 or, in the case
 2 of a taxing unit, by Section 41.07 that the order appealed has been
 3 issued. To exercise the right to appeal an order of the
 4 commissioner [~~comptroller~~], a party other than a property owner
 5 must file written notice of appeal within 15 days after the date the
 6 party receives the commissioner's [~~comptroller's~~] order. A
 7 property owner is not required to file a notice of appeal under this
 8 section.

9 (b) A party required to file a notice of appeal under this
 10 section other than a chief appraiser who appeals an order of an
 11 appraisal review board shall file the notice with the chief
 12 appraiser of the appraisal district for which the appraisal review
 13 board is established. A chief appraiser who appeals an order of an
 14 appraisal review board shall file the notice with the appraisal
 15 review board. A party who appeals an order of the commissioner
 16 [~~comptroller~~] shall file the notice with the commissioner
 17 [~~comptroller~~].

18 (c) If the chief appraiser, a taxing unit, or a county
 19 appeals, the chief appraiser, if the appeal is of an order of the
 20 appraisal review board, or the commissioner [~~comptroller~~], if the
 21 appeal is of an order of the commissioner [~~comptroller~~], shall
 22 deliver a copy of the notice to the property owner whose property is
 23 involved in the appeal within 10 days after the date the notice is
 24 filed.

25 SECTION 13A.103. Section 42.21(b), Tax Code, is amended to
 26 read as follows:

27 (b) A petition for review brought under Section 42.02 must

1 be brought against the owner of the property involved in the appeal.
2 A petition for review brought under Section 42.031 must be brought
3 against the appraisal district and against the owner of the
4 property involved in the appeal. A petition for review brought
5 under Subdivision (2) or (3) of Section 42.01 or under Section 42.03
6 must be brought against the commissioner [~~comptroller~~]. Any other
7 petition for review under this chapter must be brought against the
8 appraisal district. A petition for review is not required to be
9 brought against the appraisal review board, but may be brought
10 against the appraisal review board in addition to any other
11 required party, if appropriate.

12 SECTION 13A.104. Section 42.22, Tax Code, as amended by
13 Chapters 667 and 1033, Acts of the 73rd Legislature, Regular
14 Session, 1993, is reenacted and amended to read as follows:

15 Sec. 42.22. VENUE. (a) Except as provided by Subsections
16 (b) and (c), and by Section 42.221, venue is in the county in which
17 the appraisal review board that issued the order appealed is
18 located.

19 (b) Venue of an action brought under Section 42.01(1) is in
20 the county in which the property is located or in the county in
21 which the appraisal review board that issued the order is located.

22 (c) Venue is in Travis County if the order appealed was
23 issued by the commissioner [~~comptroller~~].

24 SECTION 13A.105. Section 42.23(b), Tax Code, is amended to
25 read as follows:

26 (b) The court may not admit in evidence the fact of prior
27 action by the appraisal review board or commissioner [~~comptroller~~],

1 except to the extent necessary to establish its jurisdiction.

2 SECTION 13A.106. Section 42.26(c), Tax Code, is amended to
3 read as follows:

4 (c) For purposes of establishing the median level of
5 appraisal under Subsection (a)(1), the median level of appraisal in
6 the appraisal district as determined by the commissioner
7 ~~[comptroller]~~ under Section 51.41 ~~[5.10]~~ is admissible as evidence
8 of the median level of appraisal of a reasonable and representative
9 sample of properties in the appraisal district for the year of the
10 commissioner's ~~[comptroller's]~~ determination, subject to the Texas
11 Rules of Evidence and the Texas Rules of Civil Procedure.

12 SECTION 13A.107. Sections 42.28 and 43.01, Tax Code, are
13 amended to read as follows:

14 Sec. 42.28. APPEAL OF DISTRICT COURT JUDGMENT. A party may
15 appeal the final judgment of the district court as provided by law
16 for appeal of civil suits generally, except that an appeal bond is
17 not required of the chief appraiser, the county, the commissioner
18 ~~[comptroller]~~, or the commissioners court of a county.

19 Sec. 43.01. AUTHORITY TO BRING SUIT. A taxing unit may sue
20 the appraisal district that appraises property for the unit to
21 compel the appraisal district to comply with the provisions of this
22 title, rules of the commissioner ~~[comptroller]~~, or other applicable
23 law.

24 SECTION 13A.108. Section 313.022(b), Tax Code, is amended
25 to read as follows:

26 (b) For purposes of determining the required minimum amount
27 of a qualified investment under Section 313.021(2)(A)(iv)(a), and

the minimum amount of a limitation on appraised value under Section 313.027(b), school districts to which this subchapter applies are categorized according to the taxable value of property in the district for the preceding tax year determined under Subchapter B, Chapter 51, Tax [~~Subchapter M, Chapter 403, Government~~] Code, as follows:

CATEGORY	TAXABLE VALUE OF PROPERTY
I	\$10 billion or more
II	\$1 billion or more but less than \$10 billion
III	\$500 million or more but less than \$1 billion
IV	\$100 million or more but less than \$500 million
V	less than \$100 million

SECTION 13A.109. Section 313.052, Tax Code, is amended to read as follows:

Sec. 313.052. CATEGORIZATION OF SCHOOL DISTRICTS. For purposes of determining the required minimum amount of a qualified investment under Section 313.021(2)(A)(iv)(a) and the minimum amount of a limitation on appraised value under this subchapter, school districts to which this subchapter applies are categorized according to the taxable value of industrial property in the district for the preceding tax year determined under Subchapter B, Chapter 51, Tax [~~Subchapter M, Chapter 403, Government~~] Code, as follows:

CATEGORY	TAXABLE VALUE OF INDUSTRIAL PROPERTY
I	\$200 million or more
II	\$90 million or more but less than \$200 million
III	\$1 million or more but less than \$90 million

1 IV \$100,000 or more but less than \$1 million

2 V less than \$100,000

3 SECTION 13A.110. Sections 39.901(a), (b), (c), and (e),
4 Utilities Code, are amended to read as follows:

5 (a) Not later than August 31 each year, the commissioner of
6 the State Board on Property Valuation [~~comptroller~~] shall certify
7 to the Texas Education Agency the statewide net loss in electric
8 generating facility property value attributable to electric
9 utility restructuring. In calculating the statewide net loss in
10 electric generating facility property value, the commissioner of
11 the State Board on Property Valuation [~~comptroller~~] shall:

12 (1) subtract current year electric generating
13 facility appraisal roll values, as defined by Section 25.24, Tax
14 Code, from 1999 electric generating facility appraised values in
15 each school district;

16 (2) sum the resulting property value losses (positive
17 differences);

18 (3) sum the resulting property value gains (negative
19 differences); and

20 (4) subtract the absolute value of the property value
21 gains, subject to the limitation in Section 39.9011, from the
22 absolute value of the property value losses to calculate a
23 statewide net loss.

24 (b) The Texas Education Agency shall determine the amount
25 necessary to compensate the state for the statewide net loss
26 certified under Subsection (a) by multiplying the statewide net
27 loss by the average adopted property tax rate of the school

1 districts that had losses, weighted by the value losses in each
2 school district, and dividing the result by 100 and shall notify the
3 commission of the amount necessary to compensate the state for the
4 reduction. The commissioner of the State Board on Property
5 Valuation [~~comptroller~~] shall provide the Texas Education Agency
6 the electric generating facility value losses in each school
7 district used in Subsection (a)(2) for use in calculating the
8 weighted average property tax rate.

9 (c) The amounts determined by the commissioner of the State
10 Board on Property Valuation [~~comptroller~~] and the Texas Education
11 Agency under this section, for the purposes of this section, are
12 final and may not be appealed.

13 (e) The commissioner of education and the commissioner of
14 the State Board on Property Valuation [~~comptroller~~] shall adopt
15 rules necessary to implement this section, including rules
16 providing for public input.

17 SECTION 13A.111. The following laws are repealed:

18 (1) Sections 5.10, 5.102, 5.12, and 5.13, Tax Code;
19 and

20 (2) Subchapter M, Chapter 403, Government Code.

21 SECTION 13A.112. (a) As soon as practicable on or after the
22 effective date of this article, the governor shall appoint the
23 members of the State Board on Property Valuation. The initial
24 members appointed shall draw lots so that one member's term expires
25 March 1, 2005, two members' terms expire March 1, 2007, and two
26 members' terms expire March 1, 2009. The board shall employ a
27 commissioner as soon as practicable after a majority of the members

1 of the board qualify for office.

2 (b) The comptroller of public accounts and the commissioner
3 of the State Board on Property Valuation shall coordinate the
4 transfer of all aspects and functions of the comptroller relating
5 to state administration of the property tax system to the board or
6 commissioner, as applicable. The transfer shall be accomplished as
7 soon as practicable but not later than the 45th day after the date
8 the board employs the initial commissioner.

9 (c) The transfer required by Subsection (b) of this section
10 includes all assets, obligations, and liabilities of any kind
11 relating to state administration of the property tax system,
12 including all contracts, leases, real or personal property,
13 personnel, furniture, computers and other equipment, files, and
14 related materials used by the comptroller for that purpose.

15 (d) All appropriations made to the comptroller for the
16 operation of the property tax division, as well as the personnel
17 assigned to the division, are transferred to the State Board on
18 Property Valuation, except for the appropriations for support
19 services provided by other divisions of the comptroller's office.
20 Notwithstanding Section 5.02(d), Tax Code, as added by this Act,
21 until the end of the state fiscal biennium that begins September 1,
22 2003, the comptroller, by interagency contract, shall continue to
23 provide support to the State Board on Property Valuation for
24 payroll, human resources, computer maintenance and technical
25 assistance, printing and distribution of publications created by
26 the board, and similar administrative services currently provided.

27 (e) All forms, rules, and procedures relating to state

1 administration of the property tax system adopted by the
2 comptroller or administratively transferred to the comptroller and
3 in effect on the effective date of this article remain in effect on
4 or after that date as if adopted by the State Board on Property
5 Valuation or the commissioner of the State Board on Property
6 Valuation, as applicable, until amended, repealed, withdrawn, or
7 otherwise superseded by the board or commissioner.

8 (f) In any protest, appeal, or other administrative or
9 judicial action in which the comptroller is a party on the effective
10 date of this article in connection with a duty or function
11 transferred from the comptroller to the State Board on Property
12 Valuation or the commissioner of the State Board on Property
13 Valuation, as applicable, by this article, the board or
14 commissioner is substituted for the comptroller on the effective
15 date of this article.

16 SECTION 13A.113. This article takes effect immediately if
17 this Act receives a vote of two-thirds of all the members elected to
18 each house, as provided by Section 39, Article III, Texas
19 Constitution. If this Act does not receive the vote necessary for
20 immediate effect, this article takes effect September 1, 2003.

21 PART 14. CONFLICTS CLAUSE; EFFECTIVE DATE

22 ARTICLE 14A. CONFLICTS CLAUSE

23 SECTION 14A.01. In the event of a conflict between a
24 provision of this Act and another Act passed by the 78th
25 Legislature, Regular Session, 2003, that becomes law, this Act
26 prevails and controls regardless of the relative dates of
27 enactment.

1 ARTICLE 14B. EFFECTIVE DATE

2 SECTION 14B.01. Except as otherwise provided by this Act,
3 this Act takes effect September 1, 2003.