

By: Ellis

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:

ARTICLE 1. ABOLITION OF CERTAIN AGENCIES AND

TRANSFER OF POWERS AND DUTIES TO

TEXAS DEPARTMENT OF LICENSING AND REGULATION

SECTION 1.01. Section 651.001, Occupations Code, is amended by adding Subdivision (3-a) to read as follows:

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

SECTION 1.02. Subchapter A, Chapter 651, Occupations Code, is amended by adding Sections 651.004 and 651.005 to read as follows:

Sec. 651.004. TEXAS DEPARTMENT OF LICENSING AND REGULATION.

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

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

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

SECTION 1.03. Section 1071.002, Occupations Code, is amended by adding Subdivision (3-a) to read as follows:

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

SECTION 1.04. Subchapter A, Chapter 1071, Occupations Code, is amended by adding Sections 1071.005 and 1071.006 to read as follows:

Sec. 1071.005. TEXAS DEPARTMENT OF LICENSING AND REGULATION. (a) The department shall administer this chapter. If in administering this chapter there is a conflict between a provision of this chapter and a provision of Chapter 51, the provision of Chapter 51 controls.

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

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

SECTION 1.05. Section 1201.003(7), Occupations Code, is amended to read as follows:

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

SECTION 1.06. Subchapter A, Chapter 1201, Occupations Code, is amended by adding Section 1201.009 to read as follows:

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

SECTION 1.07. Section 1301.002(1), Occupations Code, is

amended to read as follows:

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

SECTION 1.08. Subchapter A, Chapter 1301, Occupations Code, is amended by adding Sections 1301.004 and 1301.005 to read as follows:

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

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

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

SECTION 1.09. Section 1601.001, Occupations Code, is amended by adding Subdivision (4-a) to read as follows:

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

SECTION 1.10. Subchapter A, Chapter 1601, Occupations Code, is amended by adding Sections 1601.005 and 1601.006 to read as follows:

Sec. 1601.005. TEXAS DEPARTMENT OF LICENSING AND REGULATION. (a) The department shall administer this chapter. If 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 to the board or a reference
4 in other law to the State Board of Barber Examiners means the
5 department.

6 Sec. 1601.006. ADVISORY COMMITTEE. The governor shall
7 appoint an advisory committee of seven persons to advise the
8 department in administering this chapter.

9 SECTION 1.11. Section 1602.001, Occupations Code, is
10 amended by adding Subdivision (1-a) to read as follows:

11 (1-a) "Department" means the Texas Department of
12 Licensing and Regulation.

13 SECTION 1.12. Subchapter A, Chapter 1602, Occupations Code,
14 is amended by adding Sections 1602.005 and 1602.006 to read as
15 follows:

16 Sec. 1602.005. TEXAS DEPARTMENT OF LICENSING AND
17 REGULATION. (a) The department shall administer this chapter. If
18 in administering this chapter there is a conflict between a
19 provision of this chapter and a provision of Chapter 51, the
20 provision of Chapter 51 controls.

21 (b) A reference in this chapter to the commission or a
22 reference in other law to the Texas Cosmetology Commission means
23 the department.

24 Sec. 1602.006. ADVISORY COMMITTEE. The governor shall
25 appoint an advisory committee of seven persons to advise the
26 department in administering this chapter.

27 SECTION 1.13. Section 1951.002, Occupations Code, is

amended by adding Subdivision (6-a) to read as follows:

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

SECTION 1.14. Subchapter A, Chapter 1951, Occupations Code, is amended by adding Sections 1951.008 and 1951.009 to read as follows:

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

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

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

SECTION 1.15. Section 1.02(1), Texas Geoscience Practice Act (Article 3271b, Vernon's Texas Civil Statutes), is amended to read as follows:

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

SECTION 1.16. Subchapter A, Texas Geoscience Practice Act (Article 3271b, Vernon's Texas Civil Statutes), is amended by adding Sections 1.05 and 1.06 to read as follows:

Sec. 1.05. TEXAS DEPARTMENT OF LICENSING AND REGULATION. (a) The department shall administer this Act. If in administering

1 this Act there is a conflict between a provision of this Act and a
2 provision of Chapter 51, Occupations Code, the provision of Chapter
3 51 controls.

4 (b) A reference in this Act to the board or a reference in
5 other law to the Texas Board of Professional Geoscientists means
6 the department.

7 Sec. 1.06. ADVISORY COMMITTEE. The governor shall appoint
8 an advisory committee of seven persons to advise the department in
9 administering this Act.

10 SECTION 1.17. On September 1, 2003, the following laws are
11 repealed:

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

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

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

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

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

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

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

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

27 (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

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

SECTION 1.18. On September 1, 2003:

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

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

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

(4) a complaint, investigation, or other proceeding before the Texas Funeral Service Commission that is related to

1 Chapter 651, Occupations Code, is transferred without change in
2 status to the Texas Department of Licensing and Regulation, and the
3 Texas Department of Licensing and Regulation assumes, as
4 appropriate and without a change in status, the position of the
5 Texas Funeral Service Commission in an action or proceeding to
6 which the Texas Funeral Service Commission is a party;

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

11 (6) all property in the custody of the Texas Funeral
12 Service Commission related to Chapter 651, Occupations Code, is
13 transferred to the Texas Department of Licensing and Regulation;
14 and

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

19 SECTION 1.19. On September 1, 2003:

20 (1) all functions and activities relating to Chapter
21 1071, Occupations Code, performed by the Texas Board of
22 Professional Land Surveying immediately before that date are
23 transferred to the Texas Department of Licensing and Regulation;

24 (2) a rule or form adopted by the Texas Board of
25 Professional Land Surveying that relates to Chapter 1071,
26 Occupations Code, is a rule or form of the Texas Department of
27 Licensing and Regulation and remains in effect until amended or

1 replaced by that department;

2 (3) a reference in law or an administrative rule to the
3 Texas Board of Professional Land Surveying that relates to Chapter
4 1071, Occupations Code, means the Texas Department of Licensing and
5 Regulation;

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

15 (5) all money, contracts, leases, property, and
16 obligations of the Texas Board of Professional Land Surveying
17 related to Chapter 1071, Occupations Code, are transferred to the
18 Texas Department of Licensing and Regulation;

19 (6) all property in the custody of 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; and

23 (7) the unexpended and unobligated balance of any
24 money appropriated by the legislature for the Texas Board of
25 Professional Land Surveying related to Chapter 1071, Occupations
26 Code, is transferred to the Texas Department of Licensing and
27 Regulation.

SECTION 1.20. On September 1, 2003:

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

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

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

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

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

1 (6) all property in the custody of the Texas
2 Department of Housing and Community Affairs related to Chapter
3 1201, Occupations Code, is transferred to the Texas Department of
4 Licensing and Regulation; and

5 (7) the unexpended and unobligated balance of any
6 money appropriated by the legislature for the Texas Department of
7 Housing and Community Affairs related to Chapter 1201, Occupations
8 Code, is transferred to the Texas Department of Licensing and
9 Regulation.

10 SECTION 1.21. On September 1, 2003:

11 (1) all functions and activities relating to Chapter
12 1301, Occupations Code, performed by the Texas State Board of
13 Plumbing Examiners immediately before that date are transferred to
14 the Texas Department of Licensing and Regulation;

15 (2) a rule or form adopted by the Texas State Board of
16 Plumbing Examiners that relates to Chapter 1301, Occupations Code,
17 is a rule or form of the Texas Department of Licensing and
18 Regulation and remains in effect until amended or replaced by that
19 department;

20 (3) a reference in law or an administrative rule to the
21 Texas State Board of Plumbing Examiners that relates to Chapter
22 1301, Occupations Code, means the Texas Department of Licensing and
23 Regulation;

24 (4) a complaint, investigation, or other proceeding
25 before the Texas State Board of Plumbing Examiners that is related
26 to Chapter 1301, Occupations Code, is transferred without change in
27 status to the Texas Department of Licensing and Regulation, and the

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

5 (5) all money, contracts, leases, property, and
6 obligations of the Texas State Board of Plumbing Examiners related
7 to Chapter 1301, Occupations Code, are transferred to the Texas
8 Department of Licensing and Regulation;

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

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

17 SECTION 1.22. On September 1, 2003:

18 (1) all functions and activities relating to Chapter
19 1601, Occupations Code, performed by the State Board of Barber
20 Examiners immediately before that date are transferred to the Texas
21 Department of Licensing and Regulation;

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

26 (3) a reference in law or an administrative rule to the
27 State Board of Barber Examiners that relates to Chapter 1601,

1 Occupations Code, means the Texas Department of Licensing and
2 Regulation;

3 (4) a complaint, investigation, or other proceeding
4 before the State Board of Barber Examiners that is related to
5 Chapter 1601, Occupations Code, is transferred without change in
6 status to the Texas Department of Licensing and Regulation, and the
7 Texas Department of Licensing and Regulation assumes, as
8 appropriate and without a change in status, the position of the
9 State Board of Barber Examiners in an action or proceeding to which
10 the State Board of Barber Examiners is a party;

11 (5) all money, contracts, leases, property, and
12 obligations of the State Board of Barber Examiners related to
13 Chapter 1601, Occupations Code, are transferred to the Texas
14 Department of Licensing and Regulation;

15 (6) all property in the custody of the State Board of
16 Barber Examiners related to Chapter 1601, Occupations Code, is
17 transferred to the Texas Department of Licensing and Regulation;
18 and

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

23 SECTION 1.23. On September 1, 2003:

24 (1) all functions and activities relating to Chapter
25 1602, Occupations Code, performed by the Texas Cosmetology
26 Commission immediately before that date are transferred to the
27 Texas Department of Licensing and Regulation;

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

5 (3) a reference in law or an administrative rule to the
6 Texas Cosmetology Commission that relates to Chapter 1602,
7 Occupations Code, means the Texas Department of Licensing and
8 Regulation;

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

17 (5) all money, contracts, leases, property, and
18 obligations of the Texas Cosmetology Commission related to Chapter
19 1602, Occupations Code, are transferred to the Texas Department of
20 Licensing and Regulation;

21 (6) all property in the custody of the Texas
22 Cosmetology Commission related to Chapter 1602, Occupations Code,
23 is transferred to the Texas Department of Licensing and Regulation;
24 and

25 (7) the unexpended and unobligated balance of any
26 money appropriated by the legislature for the Texas Cosmetology
27 Commission related to Chapter 1602, Occupations Code, is

1 transferred to the Texas Department of Licensing and Regulation.

2 SECTION 1.24. On September 1, 2003:

3 (1) all functions and activities relating to Chapter
4 1951, Occupations Code, performed by the Texas Structural Pest
5 Control Board immediately before that date are transferred to the
6 Texas Department of Licensing and Regulation;

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

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

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

23 (5) all money, contracts, leases, property, and
24 obligations of the Texas Structural Pest Control Board related to
25 Chapter 1951, Occupations Code, are transferred to the Texas
26 Department of Licensing and Regulation;

27 (6) all property in the custody of the Texas

S.B. No. 1952

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

4 (7) the unexpended and unobligated balance of any
5 money appropriated by the legislature for the Texas Structural Pest
6 Control Board related to Chapter 1951, Occupations Code, is
7 transferred to the Texas Department of Licensing and Regulation.

8 SECTION 1.25. On September 1, 2003:

9 (1) all functions and activities relating to the Texas
10 Geoscience Practice Act (Article 3271b, Vernon's Texas Civil
11 Statutes) performed by the Texas Board of Professional
12 Geoscientists immediately before that date are transferred to the
13 Texas Department of Licensing and Regulation;

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

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

23 (4) a complaint, investigation, or other proceeding
24 before the Texas Board of Professional Geoscientists that is
25 related to the Texas Geoscience Practice Act (Article 3271b,
26 Vernon's Texas Civil Statutes) is transferred without change in
27 status to the Texas Department of Licensing and Regulation, and the

S.B. No. 1952

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

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

11 (6) all property in the custody of the Texas Board of
12 Professional Geoscientists related to the Texas Geoscience
13 Practice Act (Article 3271b, Vernon's Texas Civil Statutes) is
14 transferred to the Texas Department of Licensing and Regulation;
15 and

16 (7) the unexpended and unobligated balance of any
17 money appropriated by the legislature for the Texas Board of
18 Professional Geoscientists related to the Texas Geoscience
19 Practice Act (Article 3271b, Vernon's Texas Civil Statutes) is
20 transferred to the Texas Department of Licensing and Regulation.

21 SECTION 1.26. Not later than November 1, 2003, the governor
22 shall appoint the advisory committees required by Sections 651.005,
23 1071.006, 1201.009, 1301.005, 1601.006, 1602.006, and 1951.009,
24 Occupations Code, as added by this Act, and Section 1.06, Texas
25 Geoscience Practice Act (Article 3271b, Vernon's Texas Civil
26 Statutes), as added by this Act.

27 ARTICLE 2. ABOLITION OF TEXAS COMMISSION ON PRIVATE SECURITY

SECTION 2.01. Subchapter A, Chapter 1702, Occupations Code, is amended by adding Section 1702.005 to read as follows:

Sec. 1702.005. COMMISSION ABOLISHED AND FUNCTIONS TRANSFERRED. (a) The commission is abolished, and all powers, duties, personnel, property, assets, and obligations of the commission are transferred to the Department of Public Safety of the State of Texas. The validity of a prior action of the commission is not affected by the abolishment.

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

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

ARTICLE 3. ABOLITION OF BOARD OF VOCATIONAL NURSE EXAMINERS

DIVISION 1. SINGLE NURSING BOARD

SECTION 3.01. The heading to Chapter 301, Occupations Code, is amended to read as follows:

CHAPTER 301. [~~REGISTERED~~] NURSES

SECTION 3.02. Section 301.002, Occupations Code, is amended by adding Subdivisions (3), (4), and (5) to read as follows:

(3) "Nurse" means a person required to be licensed under this chapter to engage in professional or vocational nursing.

(4) "Nursing" means professional or vocational nursing.

(5) "Vocational nursing" means nursing, other than

1 professional nursing, that generally requires experience and
2 education in biological, physical, and social sciences sufficient
3 to qualify as a licensed vocational nurse.

4 SECTION 3.03. Section 301.003, Occupations Code, is amended
5 to read as follows:

6 Sec. 301.003. APPLICATION OF SUNSET ACT. The Board of Nurse
7 Examiners is subject to Chapter 325, Government Code (Texas Sunset
8 Act). Unless continued in existence as provided by that chapter,
9 the board is abolished September 1, 2007 [2005].

10 SECTION 3.04. Section 301.004(a), Occupations Code, is
11 amended to read as follows:

12 (a) This chapter does not apply to:

13 (1) gratuitous nursing care of the sick that is
14 provided by a friend;

15 (2) [~~nursing care by a licensed vocational nurse~~
16 ~~licensed under Chapter 302,~~

17 [~~(3)~~] nursing care provided during a disaster under
18 the state emergency management plan adopted under Section 418.042,
19 Government Code, if the person providing the care does not hold the
20 person out as a [~~registered or professional~~] nurse unless the
21 person is licensed in another state;

22 (3) [~~(4)~~] nursing care in which treatment is solely by
23 prayer or spiritual means;

24 (4) [~~(5)~~] an act performed by a person under the
25 delegated authority [~~control or supervision or at the instruction~~]
26 of a person licensed by the Texas State Board of Medical Examiners;

27 (5) [~~(6)~~] an act performed by a person licensed by

1 another state agency if the act is authorized by the statute under
2 which the person is licensed;

3 (6) ~~[(7)]~~ the practice of nursing that is incidental
4 to a program of study by a student enrolled in a board-approved
5 ~~[board-accredited]~~ nursing education program leading to an initial
6 license as a ~~[professional]~~ nurse; or

7 (7) ~~[(8)]~~ the practice of nursing by a person
8 ~~[registered nurse]~~ licensed in another state who is in this state on
9 a nonroutine basis for a period not to exceed 72 hours to:

10 (A) provide care to a patient being transported
11 into, out of, or through this state;

12 (B) provide ~~[professional]~~ nursing consulting
13 services; or

14 (C) attend or present a continuing nursing
15 education program.

16 SECTION 3.05. Subchapter A, Chapter 301, Occupations Code,
17 is amended by adding Section 301.005 to read as follows:

18 Sec. 301.005. OCCUPATION TAX AND FEE EXEMPTION. A
19 vocational nurse organization that operates a nonprofit registry to
20 enroll members to provide nursing to the public is not liable for
21 the payment of an occupation tax or license fee unless the law
22 imposing the tax or fee specifically imposes the tax or fee on
23 vocational nurse organizations that operate nonprofit registries.

24 SECTION 3.06. Section 301.051(a), Occupations Code, is
25 amended to read as follows:

26 (a) The Board of Nurse Examiners consists of 13 ~~[nine]~~
27 members appointed by the governor with the advice and consent of the

senate as follows:

(1) six ~~[registered]~~ nurse members, including:

(A) one advanced practice nurse;

(B) two registered nurses who are not advanced practice nurses or members of a nurse faculty; and

(C) three vocational nurses who are not members of a nurse faculty;

(2) three members who are nurse faculty members of schools of nursing:

(A) one of whom is a nurse faculty member of a school of nursing offering a ~~[the]~~ baccalaureate degree program in preparing registered nurses;

(B) one of whom is a nurse faculty member of a school of nursing offering an ~~[the]~~ associate degree program in preparing registered nurses; and

(C) one of whom is a nurse faculty member of a ~~[graduate]~~ school of nursing at an institution of higher education preparing vocational ~~[advanced practice]~~ nurses; and

(3) four ~~[(2) three]~~ members who represent the public.

SECTION 3.07. Section 301.052(a), Occupations Code, is amended to read as follows:

(a) A person is not eligible for appointment as a registered nurse or vocational nurse member of the board unless the person has practiced ~~[engaged in the]~~ nursing in the role for which the member was appointed ~~[profession]~~ for at least three of the five years preceding the date of appointment.

SECTION 3.08. Section 301.054, Occupations Code, is amended to read as follows:

Sec. 301.054. TERMS. Members of the board serve staggered six-year terms, with the terms of as near to one-third of the members as possible [~~one member who is a practicing registered nurse, one member who is a registered nurse engaged in nurse education, and one member who is a representative of the public~~] expiring on January 31 of each odd-numbered year.

SECTION 3.09. Section 301.151, Occupations Code, is amended to read as follows:

Sec. 301.151. GENERAL RULEMAKING AUTHORITY. The board may adopt and enforce rules consistent with this chapter and necessary to:

(1) perform its duties and conduct proceedings before the board;

(2) regulate the practice of professional nursing and vocational nursing;

(3) establish standards of professional conduct for license holders under this chapter; and

(4) determine whether an act constitutes the practice of professional nursing or vocational nursing.

SECTION 3.10. Section 301.154(a), Occupations Code, is amended to read as follows:

(a) The board may recommend to the Texas State Board of Medical Examiners the adoption of rules relating to the delegation by physicians of medical acts to registered nurses and vocational nurses licensed by the board. In making a recommendation, the board

1 may distinguish between nurses on the basis of special training and
2 education.

3 SECTION 3.11. The heading to Section 301.157, Occupations
4 Code, is amended to read as follows:

5 Sec. 301.157. PROGRAMS OF STUDY AND APPROVAL
6 ~~[ACCREDITATION]~~.

7 SECTION 3.12. Sections 301.157(b), (c), and (d),
8 Occupations Code, are amended to read as follows:

9 (b) The board shall:

10 (1) prescribe two programs of study to prepare
11 vocational nurses as follows:

12 (A) a program conducted by an educational unit in
13 nursing within the structure of a school, including a college,
14 university, or proprietary school; and

15 (B) a program conducted by a hospital;

16 (2) prescribe and publish the minimum requirements and
17 standards for a course of study in each program that prepares
18 registered nurses or vocational ~~[professional]~~ nurses;

19 (3) ~~[(2)]~~ prescribe other rules as necessary to
20 conduct approved ~~[accredited]~~ schools of nursing and educational
21 programs for the preparation of registered nurses or vocational
22 ~~[professional]~~ nurses;

23 (4) approve ~~[(3) —accredit]~~ schools of nursing and
24 educational programs that meet the board's requirements; and

25 (5) ~~[(4)]~~ deny or withdraw approval ~~[accreditation]~~
26 from a school of nursing or educational program that fails to meet
27 the prescribed course of study or other standard.

1 (c) A program approved to prepare registered nurses [~~The~~
2 ~~board~~] may not be [~~require a program that is composed of~~] less than
3 two academic years or more than four calendar years.

4 (d) A person may not be certified as a graduate of any school
5 of nursing or educational program unless the person has completed
6 the requirements of the prescribed course of study, including
7 clinical practice, of an approved [~~accredited~~] school of nursing or
8 educational program.

9 SECTION 3.13. Section 301.158, Occupations Code, is amended
10 to read as follows:

11 Sec. 301.158. DISSEMINATION OF INFORMATION. The board
12 shall disseminate, at least twice a year and at other times the
13 board determines necessary, information that is of significant
14 interest to [~~professional~~] nurses and employers of [~~professional~~]
15 nurses in this state, including summaries of final disciplinary
16 action taken against [~~registered~~] nurses by the board since its
17 last dissemination of information.

18 SECTION 3.14. Section 301.251, Occupations Code, is amended
19 to read as follows:

20 Sec. 301.251. LICENSE REQUIRED. (a) A person may not
21 practice or offer to practice professional nursing or vocational
22 nursing in this state unless the person is licensed as provided by
23 this chapter.

24 (b) Unless the person holds a license under this chapter, a
25 person may not use, in connection with the person's name:

26 (1) the title "Registered Nurse," "Professional
27 Nurse," "Licensed Vocational Nurse," "Vocational Nurse," "Licensed

1 Practical Nurse," "Practical Nurse," or "Graduate Nurse";

2 (2) the abbreviation "R.N., "L.V.N., "V.N., "
3 "L.P.N., " or "P.N."; or

4 (3) any other designation tending to imply that the
5 person is a licensed registered nurse or vocational nurse.

6 (c) This section does not apply to a person entitled to
7 practice professional nursing or vocational nursing in this state
8 under Chapter 304, as added by Chapter 1420, Acts of the 77th
9 Legislature, Regular Session, 2001.

10 SECTION 3.15. Section 301.252, Occupations Code, is amended
11 to read as follows:

12 Sec. 301.252. LICENSE APPLICATION. (a) Each applicant for
13 a registered nurse license or a vocational nurse license must
14 submit to the board a sworn application that demonstrates the
15 applicant's qualifications under this chapter, accompanied by
16 evidence that the applicant ~~[has]~~:

17 (1) has good professional character; and

18 (2) has successfully completed an approved
19 ~~[accredited]~~ program of professional or vocational nursing
20 education.

21 (b) The board may waive the requirement of Subsection (a)(2)
22 for a vocational nurse applicant if the applicant provides
23 satisfactory sworn evidence that the applicant has completed an
24 acceptable level of education in:

25 (1) a professional nursing school approved by the
26 board; or

27 (2) a school of professional nurse education located

1 in another state or a foreign country.

2 (c) The board by rule shall determine acceptable levels of
3 education under Subsection (b).

4 SECTION 3.16. Section 301.253(c), Occupations Code, is
5 amended to read as follows:

6 (c) The examination shall be designed to determine the
7 fitness of the applicant to practice professional nursing or
8 vocational nursing.

9 SECTION 3.17. Section 301.256, Occupations Code, is amended
10 to read as follows:

11 Sec. 301.256. ISSUANCE OF LICENSE. If the results of an
12 examination taken under Section 301.253 or 301.255 satisfy the
13 criteria established by the board under that section, the board
14 shall issue to the applicant a license to practice professional
15 nursing or vocational nursing in this state. The license must be
16 signed by the board's presiding officer and the executive director
17 and attested by the board's seal.

18 SECTION 3.18. Sections 301.257(a) and (g), Occupations
19 Code, are amended to read as follows:

20 (a) A person may petition the board for a declaratory order
21 as to the person's eligibility for a license under this chapter if
22 the person:

23 (1) is enrolled or planning to enroll in an
24 educational program that prepares a person for an initial license
25 as a registered nurse or vocational nurse; and

26 (2) has reason to believe that the person is
27 ineligible for the license.

(g) The board may require an individual accepted for enrollment or enrolled in an educational program preparing a student for initial licensure as a registered nurse or vocational nurse to submit information to the board to permit the board to determine whether the person is aware of the conditions that may disqualify the person from licensure as a registered nurse or vocational nurse on graduation and of the person's right to petition the board for a declaratory order under this section. Instead of requiring the person to submit the information, the board may require the educational program to collect and submit the information on each person accepted for enrollment or enrolled in the program.

SECTION 3.19. Sections 301.258(a), (d), and (f), Occupations Code, are amended to read as follows:

(a) Pending the results of a licensing examination, the board may issue to an applicant who is a graduate of an approved educational program a permit to practice professional nursing under the direct supervision of a registered nurse or to practice vocational nursing under the direct supervision of a registered nurse or vocational nurse.

(d) The board may issue a temporary permit to practice professional nursing or vocational nursing for the limited purpose of allowing a nurse to satisfy a requirement imposed by the board necessary for:

- (1) renewal of an expired license;
- (2) reactivation of an inactive license; or
- (3) reissuance of a suspended, revoked, or surrendered

1 license.

2 (f) A person who holds a temporary permit issued under this
3 section is considered to be a licensed registered nurse or
4 vocational nurse for all purposes except to the extent of any
5 stipulation or limitation on practice imposed by the board as a
6 condition of issuing the permit.

7 SECTION 3.20. Section 301.259, Occupations Code, is amended
8 to read as follows:

9 Sec. 301.259. RECIPROCAL LICENSE BY ENDORSEMENT FOR CERTAIN
10 FOREIGN APPLICANTS. On payment of a fee established by the board,
11 the board may issue a license to practice as a registered nurse or
12 vocational nurse in this state by endorsement without examination
13 to an applicant who holds a registration certificate as a
14 registered nurse or vocational nurse, as applicable, issued by a
15 territory or possession of the United States or a foreign country if
16 the board determines that the issuing agency of the territory or
17 possession of the United States or foreign country required in its
18 examination the same general degree of fitness required by this
19 state.

20 SECTION 3.21. Section 301.260(a), Occupations Code, is
21 amended to read as follows:

22 (a) An applicant for a license under this chapter who is
23 licensed as a registered nurse or vocational nurse by another state
24 may qualify for a temporary license by endorsement to practice as a
25 registered nurse or vocational nurse, as applicable, by submitting
26 to the board:

27 (1) an endorsement fee as determined by the board and a

1 completed sworn application in the form prescribed by the board;

2 (2) evidence that the person possessed, at the time of
3 initial licensing as a [~~registered~~] nurse, the other qualifications
4 necessary at that time to have been eligible for licensing in this
5 state; and

6 (3) proof of initial licensing by examination and
7 proof that the license and any other license issued to the applicant
8 by another state have not been suspended, revoked, canceled,
9 surrendered, or otherwise restricted.

10 SECTION 3.22. Sections 301.261(a), (c), and (e),
11 Occupations Code, are amended to read as follows:

12 (a) The board may place on inactive status the license of a
13 person under this chapter who is not actively engaged in the
14 practice of professional nursing or vocational nursing if the
15 person submits a written request to the board in the form and manner
16 determined by the board. The inactive status begins on the
17 expiration date of the person's license.

18 (c) A person whose license is on inactive status may not
19 perform any professional nursing or vocational nursing service or
20 work.

21 (e) The board by rule shall permit a person whose license is
22 on inactive status and who is 65 years or older to use, as
23 applicable, the title "Registered Nurse Retired," [~~or~~] "R.N.
24 Retired," "Licensed Vocational Nurse Retired," "Vocational Nurse
25 Retired," "L.V.N. Retired," or "V.N. Retired."

26 SECTION 3.23. Section 301.301(f), Occupations Code, is
27 amended to read as follows:

1 (f) A registered nurse who practices professional nursing
2 or a vocational nurse who practices vocational nursing after the
3 expiration of the nurse's license is an illegal practitioner whose
4 license may be revoked or suspended.

5 SECTION 3.24. Section 301.302(a), Occupations Code, is
6 amended to read as follows:

7 (a) The board may renew without examination the expired
8 license of a person who was licensed to practice professional
9 nursing or vocational nursing in this state, moved to another
10 state, and is currently licensed and has been in practice in the
11 other state for the two years preceding application.

12 SECTION 3.25. Section 301.304(a), Occupations Code, is
13 amended to read as follows:

14 (a) As part of any continuing education requirements under
15 Section 301.303, a registered nurse [~~license holder~~] shall
16 participate in not less than two hours of continuing education
17 relating to hepatitis C. This subsection applies only to a
18 registered nurse [~~license holder~~] who renews a license on or after
19 June 1, 2002.

20 SECTION 3.26. Section 301.351, Occupations Code, is amended
21 to read as follows:

22 Sec. 301.351. DESIGNATIONS. (a) A person who holds a
23 license as a registered nurse under this chapter:

24 (1) is referred to as a registered nurse; and

25 (2) may use the abbreviation "R.N."

26 (b) A person who holds a license as a vocational nurse under
27 this chapter:

1 (1) is referred to as a licensed vocational nurse or
2 vocational nurse; and

3 (2) may use the abbreviation "L.V.N." or "V.N."

4 (c) While on duty providing direct care to a patient, each
5 licensed registered nurse shall wear an insignia identifying the
6 nurse as a registered nurse and each licensed vocational nurse
7 shall wear an insignia identifying the nurse as a vocational nurse.

8 SECTION 3.27. Sections 301.352(a) and (c), Occupations
9 Code, are amended to read as follows:

10 (a) A person may not suspend, terminate, or otherwise
11 discipline or discriminate against a [~~registered~~] nurse who refuses
12 to engage in an act or omission relating to patient care that would
13 constitute grounds for reporting the nurse to the board under
14 Subchapter I if the nurse notifies the person at the time of the
15 refusal that the reason for refusing is that the act or omission:

16 (1) constitutes grounds for reporting the nurse to the
17 board; or

18 (2) is a violation of this chapter or a rule of the
19 board.

20 (c) A [~~registered~~] nurse's rights under this section may not
21 be nullified by a contract.

22 SECTION 3.28. Section 301.401, Occupations Code, is amended
23 to read as follows:

24 Sec. 301.401. GROUNDS FOR REPORTING [~~REGISTERED~~] NURSE.
25 The following are grounds for reporting a [~~registered~~] nurse under
26 Section 301.402, 301.403, 301.405, or 301.407:

27 (1) unnecessary or likely exposure by the [~~registered~~]

1 nurse of a patient or other person to a risk of harm;

2 (2) unprofessional conduct by the [~~registered~~] nurse;

3 (3) failure by the [~~registered~~] nurse to adequately
4 care for a patient;

5 (4) failure by the [~~registered~~] nurse to conform to
6 the minimum standards of acceptable professional nursing practice;
7 or

8 (5) impairment or likely impairment of the
9 [~~registered~~] nurse's practice by chemical dependency.

10 SECTION 3.29. Section 301.402, Occupations Code, is amended
11 to read as follows:

12 Sec. 301.402. DUTY OF [~~REGISTERED~~] NURSE TO REPORT. (a) In
13 this section:

14 (1) "Nursing [~~Professional nursing~~] educational
15 program" means a board-approved [~~board-accredited~~] educational
16 program leading to initial licensure as a registered nurse or
17 vocational nurse.

18 (2) "Nursing [~~Professional nursing~~] student" means an
19 individual who is enrolled in a professional nursing or vocational
20 nursing educational program.

21 (b) A [~~registered~~] nurse shall report to the board in the
22 manner prescribed under Subsection (d) if the nurse has reasonable
23 cause to suspect that:

24 (1) another [~~registered~~] nurse is subject to a ground
25 for reporting under Section 301.401; or

26 (2) the ability of a [~~professional~~] nursing student to
27 perform the services of the nursing profession would be, or would

1 reasonably be expected to be, impaired by chemical dependency.

2 (c) In a written, signed report to the appropriate licensing
3 board, a [~~registered~~] nurse may report a licensed health care
4 practitioner, agency, or facility that the nurse has reasonable
5 cause to believe has exposed a patient to substantial risk of harm
6 as a result of failing to provide patient care that conforms to the
7 minimum standards of acceptable and prevailing nursing
8 [~~professional~~] practice.

9 (d) A report by a [~~registered~~] nurse under Subsection (b)
10 must:

11 (1) be written and signed; and

12 (2) include the identity of the [~~registered~~] nurse or
13 student and any additional information required by the board.

14 (e) A [~~registered~~] nurse may make a report required under
15 Subsection (b)(2) to the [~~professional~~] nursing educational
16 program in which the student is enrolled instead of reporting to the
17 board.

18 SECTION 3.30. Section 301.403, Occupations Code, is amended
19 to read as follows:

20 Sec. 301.403. DUTY OF PEER REVIEW COMMITTEE TO REPORT. A
21 [~~professional~~] nursing peer review committee operating under
22 Chapter 303 that has a ground for reporting a [~~registered~~] nurse
23 under Section 301.401 shall file with the board a written, signed
24 report that includes:

25 (1) the identity of the nurse;

26 (2) a description of any corrective action taken
27 against the nurse;

1 (3) a statement whether the [~~professional~~] nursing
2 peer review committee recommends that the board take formal
3 disciplinary action against the nurse; and

4 (4) any additional information the board requires.

5 SECTION 3.31. Section 301.404, Occupations Code, is amended
6 to read as follows:

7 Sec. 301.404. DUTY OF NURSING EDUCATIONAL PROGRAM TO
8 REPORT. (a) In this section, "[~~professional~~] nursing educational
9 program" and "[~~professional~~] nursing student" have the meanings
10 assigned by Section 301.402(a).

11 (b) A [~~professional~~] nursing educational program that has
12 reasonable cause to suspect that the ability of a [~~professional~~]
13 nursing student to perform the services of the nursing profession
14 would be, or would reasonably be expected to be, impaired by
15 chemical dependency shall file with the board a written, signed
16 report that includes the identity of the student and any additional
17 information the board requires.

18 SECTION 3.32. Section 301.405, Occupations Code, is amended
19 to read as follows:

20 Sec. 301.405. DUTY OF PERSON EMPLOYING [~~REGISTERED~~] NURSE
21 TO REPORT. (a) This section applies only to a person who employs,
22 hires, or contracts for the services of a [~~registered~~] nurse,
23 including:

24 (1) a health care facility, including a hospital,
25 health science center, nursing home, or home health agency;

26 (2) a state agency;

27 (3) a political subdivision;

1 (4) a school of [~~professional~~] nursing; and

2 (5) a temporary nursing service.

3 (b) A person that terminates, suspends for more than seven
4 days, or takes other substantive disciplinary action, as defined by
5 the board, against a [~~registered~~] nurse because a ground under
6 Section 301.401 exists to report the nurse shall report in writing
7 to the board the identity of the nurse and any additional
8 information the board requires.

9 (c) Each person subject to this section that regularly
10 employs, hires, or otherwise contracts for the services of 10 or
11 more [~~registered~~] nurses shall develop a written plan for
12 identifying and reporting a [~~registered~~] nurse in its service
13 against whom a ground under Section 301.401 exists. The plan must
14 include an appropriate process for the review by a [~~professional~~]
15 nursing peer review committee established and operated under
16 Chapter 303 of any incident reportable under this section and for
17 the affected nurse to submit rebuttal information to that
18 committee. Review by the committee is only advisory.

19 (d) The review by the peer review committee must include a
20 determination as to whether a ground under Section 301.401 exists
21 to report the [~~registered~~] nurse undergoing review. The peer
22 review committee's determination must be included in the report
23 made to the board under Subsection (b).

24 (e) The requirement that a report to the board be reviewed
25 by a [~~professional~~] nursing peer review committee:

26 (1) applies only to a required report; and

27 (2) does not subject a person's administrative

1 decision to discipline a [~~registered~~] nurse to the peer review
2 process or prevent a person from taking disciplinary action before
3 review by the peer review committee is conducted.

4 (f) The board shall enter into memoranda of understanding
5 with each state agency that licenses, registers, or certifies a
6 health care facility or agency or surveys that facility or agency
7 with respect to [~~professional~~] nursing care as to how that state
8 agency can promote compliance with Subsection (c).

9 SECTION 3.33. Section 301.406, Occupations Code, is amended
10 to read as follows:

11 Sec. 301.406. DUTY OF CERTAIN PROFESSIONAL ASSOCIATIONS AND
12 ORGANIZATIONS TO REPORT. A professional association of
13 [~~registered~~] nurses or an organization that conducts a
14 certification or accreditation program for [~~registered~~] nurses and
15 that expels, decertifies, or takes any other substantive
16 disciplinary action, as defined by the board, against a
17 [~~registered~~] nurse as a result of the nurse's failure to conform to
18 the minimum standards of acceptable [~~professional~~] nursing
19 practice shall report in writing to the board the identity of the
20 nurse and any additional information the board requires.

21 SECTION 3.34. Section 301.407, Occupations Code, is amended
22 to read as follows:

23 Sec. 301.407. DUTY OF STATE AGENCY TO REPORT. (a) This
24 section applies only to a state agency that:

25 (1) licenses, registers, or certifies:

26 (A) a hospital;

27 (B) a nursing home;

(C) a health science center;

(D) a home health agency; or

(E) another health care facility or agency; or

(2) surveys a facility or agency listed in Subdivision (1) regarding the quality of ~~[professional]~~ nursing care provided by the facility or agency.

(b) Unless expressly prohibited by state or federal law, a state agency that has reason to believe a ground for reporting a ~~[registered]~~ nurse exists under Section 301.401 shall report in writing to the board the identity of that ~~[registered]~~ nurse.

SECTION 3.35. Section 301.408, Occupations Code, is amended to read as follows:

Sec. 301.408. DUTY OF ~~[PROFESSIONAL]~~ LIABILITY INSURER TO REPORT. (a) Each insurer that provides to a ~~[registered]~~ nurse ~~[professional]~~ liability insurance that covers claims arising from providing or failing to provide ~~[professional]~~ nursing care shall submit to the board the report or data required by this section at the time prescribed.

(b) The report or data must be provided for:

(1) a complaint filed in court against a ~~[registered]~~ nurse that seeks damages related to the nurse's conduct in providing or failing to provide ~~[professional]~~ nursing care; and

(2) a settlement of a claim or lawsuit made on behalf of a nurse.

(c) Not later than the 30th day after the date the insurer receives a complaint subject to Subsection (b), the insurer shall provide to the board:

1 (1) the name of the [~~registered~~] nurse against whom
2 the claim is filed;

3 (2) the policy number;

4 (3) the policy limits;

5 (4) a copy of the petition;

6 (5) a copy of the answer; and

7 (6) other relevant information known by the insurer,
8 as required by the board.

9 (d) Not later than the 30th day after the date of a judgment,
10 dismissal, or settlement of a suit involving an insured
11 [~~registered~~] nurse or settlement of a claim on behalf of the nurse
12 without the filing of a lawsuit, the insurer shall provide to the
13 board information regarding the date of the judgment, dismissal, or
14 settlement and, if appropriate:

15 (1) whether an appeal has been taken from the judgment
16 and by which party;

17 (2) the amount of the settlement or judgment against
18 the nurse; and

19 (3) other relevant information known by the insurer,
20 as required by the board.

21 (e) A [~~registered~~] nurse shall report the information
22 required to be reported under this section if the nurse is named as
23 a defendant in a claim arising from providing or failing to provide
24 [~~professional~~] nursing care and the nurse:

25 (1) does not carry or is not covered by [~~professional~~]
26 liability insurance; or

27 (2) is insured by a nonadmitted carrier.

SECTION 3.36. Section 301.409(a), Occupations Code, is amended to read as follows:

(a) The attorney representing the state shall cause the clerk of the court of record in which the conviction, adjudication, or finding is entered to prepare and forward to the board a certified true and correct abstract of the court record of the case not later than the 30th day after the date:

(1) a person known to be a ~~[registered]~~ nurse who is licensed, otherwise lawfully practicing in this state, or applying to be licensed to practice is convicted of:

(A) a felony;

(B) a misdemeanor involving moral turpitude;

(C) a violation of a state or federal narcotics or controlled substance law; or

(D) an offense involving fraud or abuse under the Medicare or Medicaid program; or

(2) a court finds that a ~~[registered]~~ nurse is mentally ill or mentally incompetent.

SECTION 3.37. Section 301.410, Occupations Code, is amended to read as follows:

Sec. 301.410. REPORT REGARDING IMPAIRMENT BY CHEMICAL DEPENDENCY OR MENTAL ILLNESS. A person who is required to report a ~~[registered]~~ nurse under this subchapter because the nurse is impaired or suspected of being impaired by chemical dependency or mental illness may report to a peer assistance program approved by the board under Chapter 467, Health and Safety Code, instead of reporting to the board or requesting review by a ~~[professional]~~

1 nursing peer review committee.

2 SECTION 3.38. Section 301.414, Occupations Code, is amended
3 to read as follows:

4 Sec. 301.414. NOTICE AND REVIEW OF REPORT. (a) The board
5 shall notify each [~~registered~~] nurse who is reported to the board
6 under Section 301.402, 301.403, 301.405, 301.406, 301.407,
7 301.408, or 301.409 of the filing of the report unless the
8 notification would jeopardize an active investigation.

9 (b) The [~~registered~~] nurse or the nurse's authorized
10 representative is entitled on request to review any report
11 submitted to the board under a section specified under Subsection
12 (a) unless doing so would jeopardize an active investigation. The
13 board may not reveal the identity of the person making or signing
14 the report.

15 SECTION 3.39. Section 301.415(a), Occupations Code, is
16 amended to read as follows:

17 (a) A [~~registered~~] nurse who is entitled to receive notice
18 under Section 301.414 or the authorized representative of the nurse
19 may file with the board a statement of reasonable length containing
20 the nurse's rebuttal of any information in the report to the board.

21 SECTION 3.40. Section 301.416(b), Occupations Code, is
22 amended to read as follows:

23 (b) If the board determines that the reported conduct does
24 not indicate that the continued practice of [~~professional~~] nursing
25 by the nurse poses a risk of harm to a client or other person, the
26 board, with the written consent of the nurse and the person making
27 the report, may elect not to proceed with an investigation or to

1 file formal charges. The board shall:

2 (1) maintain a record of the report; and

3 (2) investigate the report if it receives two or more
4 reports involving separate incidents regarding the nurse in any
5 five-year period.

6 SECTION 3.41. Sections 301.418(b) and (c), Occupations
7 Code, are amended to read as follows:

8 (b) A report or information submitted as required or
9 authorized by this subchapter arising out of the provision or
10 failure to provide [~~professional~~] nursing services may not be made
11 available in a liability action for:

12 (1) discovery;

13 (2) court subpoena; or

14 (3) introduction into evidence.

15 (c) A person is not prevented from taking disciplinary
16 action against a [~~registered~~] nurse by:

17 (1) the filing of a report under this subchapter with
18 the board;

19 (2) an investigation by the board; or

20 (3) the disposition of a matter by the board.

21 SECTION 3.42. Sections 301.419(a), (c), and (d),
22 Occupations Code, are amended to read as follows:

23 (a) In this section, "minor incident" means conduct that
24 does not indicate that the continuing practice of [~~professional~~]
25 nursing by an affected nurse poses a risk of harm to a client or
26 other person.

27 (c) If the board determines that a report submitted under

1 this subchapter is without merit, the board shall expunge the
2 report from the [~~registered~~] nurse's file.

3 (d) The board shall inform, in the manner the board
4 determines appropriate, [~~registered~~] nurses, facilities, agencies,
5 and other persons of their duty to report under this subchapter.

6 SECTION 3.43. Section 301.451, Occupations Code, is amended
7 to read as follows:

8 Sec. 301.451. CERTAIN PROHIBITED PRACTICES. A person may
9 not:

10 (1) sell, fraudulently obtain, or fraudulently
11 furnish a nursing diploma, license, renewal license, or record;

12 (2) assist another person in selling, fraudulently
13 obtaining, or fraudulently furnishing a nursing diploma, license,
14 renewal license, or record;

15 (3) practice [~~professional~~] nursing under a diploma,
16 license, or record that was:

17 (A) obtained unlawfully or fraudulently; or

18 (B) signed or issued unlawfully or under false
19 representation; or

20 (4) practice [~~professional~~] nursing in a period in
21 which the person's license is suspended or revoked.

22 SECTION 3.44. Sections 301.452(a) and (b), Occupations
23 Code, are amended to read as follows:

24 (a) In this section, "intemperate use" includes practicing
25 [~~professional~~] nursing or being on duty or on call while under the
26 influence of alcohol or drugs.

27 (b) A person is subject to denial of a license or to

1 disciplinary action under this subchapter for:

2 (1) a violation of this chapter, a rule or regulation
3 not inconsistent with this chapter, or an order issued under this
4 chapter;

5 (2) fraud or deceit in procuring or attempting to
6 procure a license to practice professional nursing or vocational
7 nursing;

8 (3) a conviction for a felony or for a misdemeanor
9 involving moral turpitude;

10 (4) conduct that results in the revocation of
11 probation imposed because of conviction for a felony or for a
12 misdemeanor involving moral turpitude;

13 (5) use of a nursing license, diploma, or permit, or
14 the transcript of such a document, that has been fraudulently
15 purchased, issued, counterfeited, or materially altered;

16 (6) impersonating or acting as a proxy for another
17 person in the licensing examination required under Section 301.253
18 or 301.255;

19 (7) directly or indirectly aiding or abetting an
20 unlicensed person in connection with the unauthorized practice of
21 ~~[professional]~~ nursing;

22 (8) revocation, suspension, or denial of, or any other
23 action relating to, the person's license or privilege to practice
24 nursing in another jurisdiction;

25 (9) intemperate use of alcohol or drugs that the board
26 determines endangers or could endanger a patient;

27 (10) unprofessional or dishonorable conduct that, in

1 the board's opinion, is likely to deceive, defraud, or injure a
2 patient or the public;

3 (11) adjudication of mental incompetency;

4 (12) lack of fitness to practice because of a mental or
5 physical health condition that could result in injury to a patient
6 or the public; or

7 (13) failure to care adequately for a patient or to
8 conform to the minimum standards of acceptable ~~[professional]~~
9 nursing practice in a manner that, in the board's opinion, exposes a
10 patient or other person unnecessarily to risk of harm.

11 SECTION 3.45. Sections 301.453(a), (b), and (c),
12 Occupations Code, are amended to read as follows:

13 (a) If the board determines that a person has committed an
14 act listed in Section 301.452(b), the board shall enter an order
15 imposing one or more of the following:

16 (1) denial of the person's application for a license,
17 license renewal, or temporary permit;

18 (2) issuance of a written warning;

19 (3) administration of a public reprimand;

20 (4) limitation or restriction of the person's license,
21 including:

22 (A) limiting to or excluding from the person's
23 practice one or more specified activities of ~~[professional]~~
24 nursing; or

25 (B) stipulating periodic board review;

26 (5) suspension of the person's license for a period not
27 to exceed five years;

1 (6) revocation of the person's license; or

2 (7) assessment of a fine.

3 (b) In addition to or instead of an action under Subsection
4 (a), the board, by order, may require the person to:

5 (1) submit to care, counseling, or treatment by a
6 health provider designated by the board as a condition for the
7 issuance or renewal of a license;

8 (2) participate in a program of education or
9 counseling prescribed by the board;

10 (3) practice for a specified period under the
11 direction of a registered nurse or vocational nurse designated by
12 the board; or

13 (4) perform public service the board considers
14 appropriate.

15 (c) The board may probate any penalty imposed on a
16 [~~registered~~] nurse and may accept the voluntary surrender of a
17 license. The board may not reinstate a surrendered license unless
18 it determines that the person is competent to resume practice.

19 SECTION 3.46. Section 301.455(a), Occupations Code, is
20 amended to read as follows:

21 (a) The license of a [~~registered~~] nurse shall be temporarily
22 suspended on a determination by a majority of the board or a
23 three-member committee of board members designated by the board
24 that, from the evidence or information presented, the continued
25 practice of the [~~registered~~] nurse would constitute a continuing
26 and imminent threat to the public welfare.

27 SECTION 3.47. Section 301.457, Occupations Code, is amended

1 to read as follows:

2 Sec. 301.457. COMPLAINT AND INVESTIGATION. (a) The board
3 or any person may initiate a proceeding under this subchapter by
4 filing with the board a complaint against a ~~[registered]~~ nurse. The
5 complaint must be in writing and signed by the complainant.

6 (b) Except as otherwise provided by this section, the board
7 or a person authorized by the board shall conduct each
8 investigation. Each complaint against a ~~[registered]~~ nurse that
9 requires a determination of ~~[professional]~~ nursing competency
10 shall be reviewed by a board member, consultant, or employee with a
11 ~~[professional]~~ nursing background the board considers sufficient.

12 (c) On the filing of a complaint, the board:

13 (1) may conduct a preliminary investigation into the
14 identity of the ~~[registered]~~ nurse named or described in the
15 complaint;

16 (2) shall make a timely and appropriate preliminary
17 investigation of the complaint; and

18 (3) may issue a warning or reprimand to the
19 ~~[registered]~~ nurse.

20 (d) After any preliminary investigation to determine the
21 identity of the subject of the complaint, unless it would
22 jeopardize an investigation, the board shall notify the
23 ~~[registered]~~ nurse that a complaint has been filed and the nature of
24 the complaint. If the investigation reveals probable cause to take
25 further disciplinary action, the board shall either attempt an
26 informal disposition of the complaint or file a formal charge
27 against the ~~[registered]~~ nurse stating the provision of this

chapter or board rule that is alleged to have been violated and a brief description of each act or omission that constitutes the violation.

(e) The board shall conduct an investigation of the complaint to determine:

(1) whether the ~~[registered]~~ nurse's continued practice of ~~[professional]~~ nursing poses a risk of harm to clients or other persons; and

(2) whether probable cause exists that a ~~[registered]~~ nurse committed an act listed in Section 301.452(b) or that violates other law.

SECTION 3.48. Sections 301.458(a) and (c), Occupations Code, are amended to read as follows:

(a) Unless there is an agreed disposition of the complaint under Section 301.463, and if probable cause is found under Section 301.457(e)(2), the board or the board's authorized representative shall initiate proceedings by filing formal charges against the ~~[registered]~~ nurse.

(c) A copy of the formal charge shall be served on the ~~[registered]~~ nurse or the nurse's counsel of record.

SECTION 3.49. Section 301.459(b), Occupations Code, is amended to read as follows:

(b) In any hearing under this section, a ~~[registered]~~ nurse is entitled to appear in person or by counsel.

SECTION 3.50. Section 301.462, Occupations Code, is amended to read as follows:

Sec. 301.462. VOLUNTARY SURRENDER OF LICENSE. The board

1 may revoke a [~~registered~~] nurse's license without formal charges,
2 notice, or opportunity of hearing if the nurse voluntarily
3 surrenders the nurse's license to the board and executes a sworn
4 statement that the nurse does not desire to be licensed.

5 SECTION 3.51. Section 301.463(b), Occupations Code, is
6 amended to read as follows:

7 (b) An agreed disposition of a complaint is considered to be
8 a disciplinary order for purposes of reporting under this chapter
9 and an administrative hearing and proceeding by a state or federal
10 regulatory agency regarding the practice of [~~professional~~]
11 nursing.

12 SECTION 3.52. Section 301.466, Occupations Code, is amended
13 to read as follows:

14 Sec. 301.466. CONFIDENTIALITY. (a) A complaint and
15 investigation concerning a [~~registered~~] nurse under this
16 subchapter and all information and material compiled by the board
17 in connection with the complaint and investigation are:

18 (1) confidential and not subject to disclosure under
19 Chapter 552, Government Code; and

20 (2) not subject to disclosure, discovery, subpoena, or
21 other means of legal compulsion for release to anyone other than the
22 board or a board employee or agent involved in license holder
23 discipline.

24 (b) Notwithstanding Subsection (a), information regarding a
25 complaint and an investigation may be disclosed to:

26 (1) a person involved with the board in a disciplinary
27 action against the nurse;

1 (2) a [~~professional~~] nursing licensing or
2 disciplinary board in another jurisdiction;

3 (3) a peer assistance program approved by the board
4 under Chapter 467, Health and Safety Code;

5 (4) a law enforcement agency; or

6 (5) a person engaged in bona fide research, if all
7 information identifying a specific individual has been deleted.

8 (c) The filing of formal charges against a [~~registered~~]
9 nurse by the board, the nature of those charges, disciplinary
10 proceedings of the board, and final disciplinary actions, including
11 warnings and reprimands, by the board are not confidential and are
12 subject to disclosure in accordance with Chapter 552, Government
13 Code.

14 SECTION 3.53. Section 301.467(a), Occupations Code, is
15 amended to read as follows:

16 (a) On application, the board may reinstate a license to
17 practice professional nursing or vocational nursing to a person
18 whose license has been revoked, suspended, or surrendered.

19 SECTION 3.54. Section 301.468(a), Occupations Code, is
20 amended to read as follows:

21 (a) The board may determine that an order denying a license
22 application or suspending a license be probated. A person subject
23 to a probation order shall conform to each condition the board sets
24 as the terms of probation, including a condition:

25 (1) limiting the practice of the person to, or
26 excluding, one or more specified activities of professional nursing
27 or vocational nursing; or

1 (2) requiring the person to submit to supervision,
2 care, counseling, or treatment by a practitioner designated by the
3 board.

4 SECTION 3.55. Section 301.469, Occupations Code, is amended
5 to read as follows:

6 Sec. 301.469. NOTICE OF FINAL ACTION. If the board takes a
7 final disciplinary action, including a warning or reprimand,
8 against a [~~registered~~] nurse under this subchapter, the board shall
9 immediately send a copy of the board's final order to the nurse and
10 to the last known employer of the nurse.

11 DIVISION 2. CONFORMING AMENDMENTS

12 SECTION 3.56. Section 84.003(5), Civil Practice and
13 Remedies Code, is amended to read as follows:

14 (5) "Volunteer health care provider" means an
15 individual who voluntarily provides health care services without
16 compensation or expectation of compensation and who is:

17 (A) an individual who is licensed to practice
18 medicine under Subtitle B, Title 3, Occupations Code;

19 (B) a retired physician who is eligible to
20 provide health care services, including a retired physician who is
21 licensed but exempt from paying the required annual registration
22 fee under Section 156.002, Occupations Code;

23 (C) a physician assistant licensed under Chapter
24 204, Occupations Code, or a retired physician assistant who is
25 eligible to provide health care services under the law of this
26 state;

27 (D) a registered nurse, including an advanced

1 nurse practitioner, or vocational nurse, licensed under Chapter
2 301, Occupations Code, or a retired vocational nurse or registered
3 nurse, including a retired advanced nurse practitioner, who is
4 eligible to provide health care services under the law of this
5 state;

6 (E) [~~a licensed vocational nurse licensed under~~
7 ~~Chapter 302, Occupations Code, or a retired licensed vocational~~
8 ~~nurse who is eligible to provide health care services under the law~~
9 ~~of this state,~~

10 [~~(F)~~] a pharmacist licensed under Subtitle J,
11 Title 3, Occupations Code, or a retired pharmacist who is eligible
12 to provide health care services under the law of this state;

13 (F) [~~(G)~~] a podiatrist licensed under Chapter
14 202, Occupations Code, or a retired podiatrist who is eligible to
15 provide health care services under the law of this state;

16 (G) [~~(H)~~] a dentist licensed under Subtitle D,
17 Title 3, Occupations Code, or a retired dentist who is eligible to
18 provide health care services under the law of this state;

19 (H) [~~(I)~~] a dental hygienist licensed under
20 Subtitle D, Title 3, Occupations Code, or a retired dental
21 hygienist who is eligible to provide health care services under the
22 law of this state; or

23 (I) [~~(J)~~] an optometrist or therapeutic
24 optometrist licensed under Chapter 351, Occupations Code, or a
25 retired optometrist or therapeutic optometrist who is eligible to
26 provide health care services under the law of this state.

27 SECTION 3.57. Section 61.657(b), Education Code, is amended

to read as follows:

(b) The board shall appoint an eight-member advisory committee to advise the board concerning assistance provided under this subchapter to vocational nursing students. The advisory committee consists of:

- (1) a chair named by the board;
- (2) one representative named by the Licensed Vocational Nurses Association of Texas;
- (3) one representative named by the Texas Organization of Nurse Executives;
- (4) one representative named by the Board of ~~[Vocational]~~ Nurse Examiners;
- (5) two representatives of vocational nursing educational programs named by the Texas Association of Vocational Nurse Educators;
- (6) one representative named by the Texas Health Care Association; and
- (7) one representative named by the Texas Association of Homes for the Aging.

SECTION 3.58. Section 232.002, Family Code, is amended to read as follows:

Sec. 232.002. LICENSING AUTHORITIES SUBJECT TO CHAPTER. The following are licensing authorities subject to this chapter:

- (1) Department of Agriculture;
- (2) Texas Commission on Alcohol and Drug Abuse;
- (3) Texas Alcoholic Beverage Commission;
- (4) Texas Appraiser Licensing and Certification

Board;

- (5) Texas Board of Architectural Examiners;
- (6) State Board of Barber Examiners;
- (7) Texas Board of Chiropractic Examiners;
- (8) Comptroller of Public Accounts;
- (9) Texas Cosmetology Commission;
- (10) Court Reporters Certification Board;
- (11) State Board of Dental Examiners;
- (12) Texas State Board of Examiners of Dietitians;
- (13) Texas Funeral Service Commission;
- (14) Texas Department of Health;
- (15) Texas Department of Human Services;
- (16) Texas Board of Professional Land Surveying;
- (17) Texas Department of Licensing and Regulation;
- (18) Texas State Board of Examiners of Marriage and Family Therapists;
- (19) Texas State Board of Medical Examiners;
- (20) Midwifery Board;
- (21) Texas Commission on Environmental Quality
- (22) Board of Nurse Examiners;
- (23) Texas Board of Occupational Therapy Examiners;
- (24) Texas Optometry Board;
- (25) Parks and Wildlife Department;
- (26) Texas State Board of Examiners of Perfusionists;
- (27) Texas State Board of Pharmacy;
- (28) Texas Board of Physical Therapy Examiners;

~~[Natural Resource Conservation Commission];~~

- 1 (29) Texas State Board of Plumbing Examiners;
2 (30) Texas State Board of Podiatric Medical Examiners;
3 (31) Polygraph Examiners Board;
4 (32) Texas Commission on Private Security;
5 (33) Texas State Board of Examiners of Professional
6 Counselors;
7 (34) Texas Board of Professional Engineers;
8 (35) Department of Protective and Regulatory
9 Services;
10 (36) Texas State Board of Examiners of Psychologists;
11 (37) Texas State Board of Public Accountancy;
12 (38) Department of Public Safety of the State of
13 Texas;
14 (39) Public Utility Commission of Texas;
15 (40) Railroad Commission of Texas;
16 (41) Texas Real Estate Commission;
17 (42) State Bar of Texas;
18 (43) Texas State Board of Social Worker Examiners;
19 (44) State Board of Examiners for Speech-Language
20 Pathology and Audiology;
21 (45) Texas Structural Pest Control Board;
22 (46) Board of Tax Professional Examiners;
23 (47) Secretary of State;
24 (48) Supreme Court of Texas;
25 (49) Texas Transportation Commission;
26 (50) State Board of Veterinary Medical Examiners;
27 (51) ~~[Board of Vocational Nurse Examiners;~~

1 ~~[(52)]~~ Texas Ethics Commission;
2 (52) ~~[(53)]~~ Advisory Board of Athletic Trainers;
3 (53) ~~[(54)]~~ State Committee of Examiners in the
4 Fitting and Dispensing of Hearing Instruments;
5 (54) ~~[(55)]~~ Texas Board of Licensure for Professional
6 Medical Physicists;
7 (55) ~~[(56)]~~ Texas Department of Insurance;
8 (56) ~~[(57)]~~ Texas Board of Orthotics and Prosthetics;
9 (57) ~~[(58)]~~ savings and loan commissioner;
10 (58) ~~[(59)]~~ Texas Juvenile Probation Commission; and
11 (59) ~~[(60)]~~ Texas Lottery Commission under Chapter
12 466, Government Code.

13 SECTION 3.59. Section 487.101(3), Government Code, is
14 amended to read as follows:

15 (3) "Postsecondary educational institution" means:
16 (A) an institution of higher education, as
17 defined by Section 61.003, Education Code;
18 (B) a nonprofit, independent institution
19 approved under Section 61.222, Education Code; or
20 (C) a nonprofit, health-related school or
21 program accredited by the Southern Association of Colleges and
22 Schools, the Liaison Committee on Medical Education, the American
23 Osteopathic Association, the Board of Nurse Examiners, ~~[the Board~~
24 ~~of Vocational Nurse Examiners,~~] or, in the case of allied health, an
25 accrediting body recognized by the United States Department of
26 Education.

27 SECTION 3.60. Section 487.151(2), Government Code, is

1 amended to read as follows:

2 (2) "Postsecondary educational institution" means:

3 (A) an institution of higher education, as
4 defined by Section 61.003, Education Code;

5 (B) a nonprofit, independent institution
6 approved under Section 61.222, Education Code; or

7 (C) a nonprofit, health-related school or
8 program accredited by the Southern Association of Colleges and
9 Schools, the Liaison Committee on Medical Education, the American
10 Osteopathic Association, the Board of Nurse Examiners, ~~the Board~~
11 ~~of Vocational Nurse Examiners,~~ or, in the case of allied health, an
12 accrediting body recognized by the United States Department of
13 Education.

14 SECTION 3.61. Section 531.051(f), Government Code, is
15 amended to read as follows:

16 (f) Section 301.251(a), Occupations Code, does not apply to
17 delivery of a service for which payment is provided under the
18 voucher payment program developed under this section if:

19 (1) the person who delivers the service:

20 (A) has not been denied a license under Chapter
21 301 ~~or 302~~, Occupations Code;

22 (B) has not been issued a license under Chapter
23 301, Occupations Code, that is revoked or suspended; and

24 (C) provides a service listed under Subsection
25 (h); and

26 (2) the consumer who receives the service:

27 (A) has a functional disability and the service

would have been performed by the consumer, or the parent or guardian for the consumer, except for that disability; and

(B) if:

(i) the consumer is capable of training the person in the proper performance of the service, the consumer directs the person to deliver the service; or

(ii) the consumer is not capable of training the person in the proper performance of the service, the consumer's parent or guardian is capable of training the person in the proper performance of the service and directs the person to deliver the service.

SECTION 3.62. Section 2054.252(a), Government Code, as added by Chapter 353, Acts of the 77th Legislature, Regular Session, 2001, is amended to read as follows:

(a) The following licensing authorities shall participate in the system established under Section 2054.253, as added by Chapter 353, Acts of the 77th Legislature, Regular Session, 2001:

- (1) State Board of Barber Examiners;
- (2) Texas Board of Chiropractic Examiners;
- (3) Texas Cosmetology Commission;
- (4) Court Reporters Certification Board;
- (5) State Board of Dental Examiners;
- (6) Texas Funeral Service Commission;
- (7) Texas Board of Professional Land Surveying;
- (8) Texas State Board of Medical Examiners;
- (9) Board of Nurse Examiners;
- (10) ~~[Board of Vocational Nurse Examiners;~~

1 ~~[(11)]~~ Texas Optometry Board;
2 (11) ~~[(12)]~~ Texas Structural Pest Control Board;
3 (12) ~~[(13)]~~ Texas State Board of Pharmacy;
4 (13) ~~[(14)]~~ Executive Council of Physical Therapy and
5 Occupational Therapy Examiners;
6 (14) ~~[(15)]~~ Texas State Board of Plumbing Examiners;
7 (15) ~~[(16)]~~ Texas State Board of Podiatric Medical
8 Examiners;
9 (16) ~~[(17)]~~ Board of Tax Professional Examiners;
10 (17) ~~[(18)]~~ Polygraph Examiners Board;
11 (18) ~~[(19)]~~ Texas State Board of Examiners of
12 Psychologists;
13 (19) ~~[(20)]~~ State Board of Veterinary Medical
14 Examiners;
15 (20) ~~[(21)]~~ Texas Real Estate Commission;
16 (21) ~~[(22)]~~ Texas Appraiser Licensing and
17 Certification Board; and
18 (22) ~~[(23)]~~ Texas Department of Licensing and
19 Regulation.

20 SECTION 3.63. Section 81.010(c), Health and Safety Code, is
21 amended to read as follows:

22 (c) The council consists of one representative from each of
23 the following agencies appointed by the executive director or
24 commissioner of each agency:

25 (1) the department;
26 (2) the Texas Department of Mental Health and Mental
27 Retardation;

- (3) the Texas Department of Human Services;
- (4) the Texas Commission on Alcohol and Drug Abuse;
- (5) the Texas Rehabilitation Commission;
- (6) the Texas Youth Commission;
- (7) the Texas Department of Criminal Justice;
- (8) the Texas Juvenile Probation Commission;
- (9) the Texas Commission for the Blind;
- (10) the Texas Commission for the Deaf and Hard of Hearing;
- (11) the Department of Protective and Regulatory Services;
- (12) the Texas Education Agency;
- (13) the Texas State Board of Medical Examiners;
- (14) the Board of Nurse Examiners;
- (15) ~~[the Board of Vocational Nurse Examiners;~~
- ~~[(16)]~~ the State Board of Dental Examiners;
- (16) ~~[(17)]~~ the Health and Human Services Commission;
- (17) ~~[(18)]~~ the Texas Department on Aging; and
- (18) ~~[(19)]~~ the Texas Workforce Commission.

SECTION 3.64. Section 142.022, Health and Safety Code, is amended to read as follows:

Sec. 142.022. EXEMPTIONS FOR NURSING STUDENTS AND MEDICATION AIDE TRAINEES. (a) Sections 142.021 and 142.029 do not apply to:

- (1) a graduate nurse holding a temporary permit issued by the Board of Nurse Examiners;
- (2) a student enrolled in an accredited school of

1 nursing or program for the education of registered nurses who is
2 administering medications as part of the student's clinical
3 experience;

4 (3) a graduate vocational nurse holding a temporary
5 permit issued by the Board of ~~[Vocational]~~ Nurse Examiners;

6 (4) a student enrolled in an accredited school of
7 vocational nursing or program for the education of vocational
8 nurses who is administering medications as part of the student's
9 clinical experience; or

10 (5) a trainee in a medication aide training program
11 approved by the department under Section 142.024 who is
12 administering medications as part of the trainee's clinical
13 experience.

14 (b) The administration of medications by persons exempted
15 under Subdivisions (1) through (4) of Subsection (a) is governed by
16 the terms of the memorandum of understanding executed by the
17 department and the Board of Nurse Examiners ~~[or the department and~~
18 ~~the Board of Vocational Nurse Examiners, as appropriate]~~.

19 SECTION 3.65. Section 164.003(6), Health and Safety Code,
20 is amended to read as follows:

21 (6) "Mental health professional" means a:

22 (A) "physician" as defined by Section 571.003;

23 (B) "licensed professional counselor" as defined
24 by Section 503.002, Occupations Code;

25 (C) "chemical dependency counselor" as defined
26 by Section 504.001, Occupations Code;

27 (D) "psychologist" offering "psychological

services" as defined by Section 501.003, Occupations Code;

(E) "registered nurse" licensed under Chapter 301, Occupations Code;

(F) "[~~licensed~~] vocational nurse" licensed under Chapter 301 [~~as defined by Section 302.001~~], Occupations Code;

(G) "licensed marriage and family therapist" as defined by Section 502.002, Occupations Code; and

(H) "social worker" as defined by Section 505.002, Occupations Code.

SECTION 3.66. Section 242.607, Health and Safety Code, is amended to read as follows:

Sec. 242.607. EXEMPTIONS FOR NURSING STUDENTS AND MEDICATION AIDE TRAINEES. (a) Sections 242.606 and 242.614 do not apply to:

(1) a graduate nurse holding a temporary permit issued by the Board of Nurse Examiners;

(2) a student enrolled in an accredited school of nursing or program for the education of registered nurses who is administering medications as part of the student's clinical experience;

(3) a graduate vocational nurse holding a temporary permit issued by the Board of [~~Vocational~~] Nurse Examiners;

(4) a student enrolled in an accredited school of vocational nursing or program for the education of vocational nurses who is administering medications as part of the student's clinical experience; or

(5) a trainee in a medication aide training program

1 approved by the department under this subchapter who is
2 administering medications as part of the trainee's clinical
3 experience.

4 (b) The administration of medications by persons exempted
5 under Subdivisions (1) through (4) of Subsection (a) is governed by
6 the terms of the memorandum of understanding executed by the
7 department and the Board of Nurse Examiners [~~or the department and~~
8 ~~the Board of Vocational Nurse Examiners, as appropriate~~].

9 SECTION 3.67. Section 36.132(a)(2), Human Resources Code,
10 is amended to read as follows:

11 (2) "Licensing authority" means:

- 12 (A) the Texas State Board of Medical Examiners;
13 (B) the State Board of Dental Examiners;
14 (C) the Texas State Board of Examiners of
15 Psychologists;
16 (D) the Texas State Board of Social Worker
17 Examiners;
18 (E) the Board of Nurse Examiners;
19 (F) [~~the Board of Vocational Nurse Examiners,~~
20 [~~(G)~~] the Texas Board of Physical Therapy
21 Examiners;
22 (G) [~~(H)~~] the Texas Board of Occupational
23 Therapy Examiners; or
24 (H) [~~(I)~~] another state agency authorized to
25 regulate a provider who receives or is eligible to receive payment
26 for a health care service under the Medicaid program.

27 SECTION 3.68. Section 101.002, Occupations Code, is amended

to read as follows:

Sec. 101.002. COMPOSITION OF COUNCIL. The council consists of 14 ~~[15]~~ members, with one member appointed by each of the following:

- (1) the Texas Board of Chiropractic Examiners;
- (2) the State Board of Dental Examiners;
- (3) the Texas Optometry Board;
- (4) the Texas State Board of Pharmacy;
- (5) the Texas State Board of Podiatric Medical Examiners;
- (6) the State Board of Veterinary Medical Examiners;
- (7) the Texas State Board of Medical Examiners;
- (8) the Board of Nurse Examiners;
- (9) the Texas State Board of Examiners of Psychologists;
- ~~(10) [the Board of Vocational Nurse Examiners;~~
- ~~[11)]~~ the Texas Funeral Service Commission;
- (11) ~~[12)]~~ the entity that regulates the practice of physical therapy;
- (12) ~~[13)]~~ the entity that regulates the practice of occupational therapy;
- (13) ~~[14)]~~ the health licensing division of the Texas Department of Health; and
- (14) ~~[15)]~~ the governor's office.

SECTION 3.69. Section 201.003(a), Occupations Code, is amended to read as follows:

- (a) This chapter does not apply to a registered nurse

1 licensed under Chapter 301, a vocational nurse licensed under
2 Chapter 301 [~~302~~], a person who provides spinal screening services
3 as authorized by Chapter 37, Health and Safety Code, a physical
4 therapist licensed under Chapter 453, or a massage therapist or a
5 massage therapy instructor qualified and registered under Chapter
6 455 if:

7 (1) the person does not represent to the public that
8 the person is a chiropractor or use the term "chiropractor,"
9 "chiropractic," "doctor of chiropractic," "D.C.," or any
10 derivative of those terms or initials in connection with the
11 person's name or practice; and

12 (2) the person practices strictly within the scope of
13 the license or registration held in compliance with all laws
14 relating to the license and registration.

15 SECTION 3.70. Section 203.402, Occupations Code, is amended
16 to read as follows:

17 Sec. 203.402. PROHIBITED REPRESENTATION. A midwife may
18 not:

19 (1) except as provided by Section 203.403, use in
20 connection with the midwife's name a title, abbreviation, or
21 designation tending to imply that the midwife is a "registered" or
22 "certified" midwife as opposed to one who is documented under this
23 chapter;

24 (2) advertise or represent that the midwife is a
25 physician or a graduate of a medical school unless the midwife is
26 licensed to practice medicine by the Texas State Board of Medical
27 Examiners;

(3) use advertising or an identification statement that is false, misleading, or deceptive; or

(4) except as authorized by rules adopted by the Board of Nurse Examiners [~~and the Board of Vocational Nurse Examiners~~], use in combination with the term "midwife" the term "nurse" or another title, initial, or designation that implies that the midwife is licensed as a registered nurse or [~~licensed~~] vocational nurse.

SECTION 3.71. Section 206.253(a), Occupations Code, is amended to read as follows:

(a) This chapter does not authorize a person who holds a license issued under this chapter to engage in the practice of:

(1) medicine, as defined by Subtitle B [~~, Title 3, Occupations Code~~]; or

(2) [~~professional~~] nursing, as defined by Chapter 301 [~~, Occupations Code, or~~

~~[(3) nursing, as defined by Chapter 302, Occupations Code]~~.

SECTION 3.72. Section 22.011(c)(3), Penal Code, is amended to read as follows:

(3) "Health care services provider" means:

(A) a physician licensed under Subtitle B, Title 3, Occupations Code;

(B) a chiropractor licensed under Chapter 201, Occupations Code;

(C) [~~a licensed vocational nurse licensed under Chapter 302, Occupations Code,~~

1 ~~[(D)]~~ a physical therapist licensed under Chapter
2 453, Occupations Code;

3 (D) ~~[(E)]~~ a physician assistant licensed under
4 Chapter 204, Occupations Code; or

5 (E) ~~[(F)]~~ a registered nurse, a vocational nurse,
6 or an advanced practice nurse licensed under Chapter 301,
7 Occupations Code.

8 SECTION 3.73. Sections 303.001(2) and (3), Occupations
9 Code, are amended to read as follows:

10 (2) "Nurse" means a registered nurse ~~[licensed under~~
11 ~~Chapter 301]~~ or a ~~[licensed]~~ vocational nurse licensed under
12 Chapter 301 ~~[302]~~.

13 (3) "Nursing" has the meaning assigned by Section
14 301.002 ~~[means professional nursing as defined by Chapter 301 or~~
15 ~~vocational nursing as defined by Chapter 302]~~.

16 SECTION 3.74. Sections 303.003(b) and (c), Occupations
17 Code, are amended to read as follows:

18 (b) A nursing peer review committee that conducts a peer
19 review that involves only the practice of vocational nursing must
20 have registered nurses and ~~[licensed]~~ vocational nurses as
21 three-fourths of its members, to the extent feasible must include
22 ~~[licensed]~~ vocational nurses as members, and may have only
23 registered nurses and ~~[licensed]~~ vocational nurses as voting
24 members.

25 (c) A nursing peer review committee that conducts a peer
26 review that involves the practice of both professional nursing and
27 ~~[licensed]~~ vocational nursing:

1 (1) must have registered nurses and [~~licensed~~]
2 vocational nurses as four-fifths of its members, with registered
3 nurses as three-fifths of its members;

4 (2) to the extent feasible must include [~~licensed~~]
5 vocational nurses as members; and

6 (3) may have only:

7 (A) registered nurses and [~~licensed~~] vocational
8 nurses as voting members when a [~~licensed~~] vocational nurse is
9 being reviewed; and

10 (B) registered nurses as voting members when a
11 registered nurse is being reviewed.

12 SECTION 3.75. Sections 303.005(a), (b), (c), (d), and (f),
13 Occupations Code, are amended to read as follows:

14 (a) In this section, "duty to a patient" means conduct
15 required by standards of practice or professional conduct adopted
16 by the board for nurses. The term includes administrative
17 decisions directly affecting a [~~registered~~] nurse's ability to
18 comply with that duty.

19 (b) If a person who regularly employs, hires, or otherwise
20 contracts for the services of at least 10 [~~registered~~] nurses
21 requests one of those nurses to engage in conduct that the nurse
22 believes violates a [~~registered~~] nurse's duty to a patient, the
23 nurse may request, on a form produced by the board, a determination
24 by a nursing peer review committee under this chapter of whether the
25 conduct violates a [~~registered~~] nurse's duty to a patient.

26 (c) A [~~registered~~] nurse who in good faith requests a peer
27 review determination under Subsection (b):

1 (1) may not be disciplined or discriminated against
2 for making the request;

3 (2) may engage in the requested conduct pending the
4 peer review;

5 (3) is not subject to the reporting requirement under
6 Subchapter I, Chapter 301; and

7 (4) may not be disciplined by the board for engaging in
8 that conduct while the peer review is pending.

9 (d) The determinations of the peer review committee shall be
10 considered in a decision to discipline the nurse, but the
11 determinations are not binding if a ~~[registered]~~ nurse
12 administrator believes in good faith that the peer review committee
13 has incorrectly determined a ~~[registered]~~ nurse's duty.

14 (f) A ~~[registered]~~ nurse's rights under this section may not
15 be nullified by a contract.

16 SECTION 3.76. Section 304.002, Occupations Code, as added
17 by Chapter 1420, Acts of the 77th Legislature, Regular Session,
18 2001, is amended to read as follows:

19 Sec. 304.002. ADMINISTRATION OF COMPACT. The executive
20 director ~~[directors]~~ of the Board of Nurse Examiners is ~~[and the~~
21 ~~Board of Vocational Nurse Examiners are]~~ the Nurse Licensure
22 Compact administrator ~~[administrators]~~ for this state. ~~[The~~
23 ~~executive director of the Board of Nurse Examiners is responsible~~
24 ~~for administering matters relating to registered nurses. The~~
25 ~~executive director of the Board of Vocational Nurse Examiners is~~
26 ~~responsible for administering matters relating to licensed~~
27 ~~vocational nurses.]~~

1 SECTION 3.77. Section 304.003, Occupations Code, as added
2 by Chapter 1420, Acts of the 77th Legislature, Regular Session,
3 2001, is amended to read as follows:

4 Sec. 304.003. RULES. The Board of Nurse Examiners [~~and the~~
5 ~~Board of Vocational Nurse Examiners~~] may adopt rules necessary to
6 implement this chapter.

7 SECTION 3.78. Sections 304.004(b) and (c), Occupations
8 Code, as added by Chapter 1420, Acts of the 77th Legislature,
9 Regular Session, 2001, are amended to read as follows:

10 (b) Unless the context indicates otherwise or doing so would
11 be inconsistent with the Nurse Licensure Compact, nurses practicing
12 in this state under a license issued by a state that is a party to
13 the Nurse Licensure Compact have the same rights and obligations as
14 imposed by the laws of this state on license holders of the Board of
15 Nurse Examiners [~~or the Board of Vocational Nurse Examiners~~].

16 (c) The Board of Nurse Examiners has [~~and the Board of~~
17 ~~Vocational Nurse Examiners have~~] the authority to determine whether
18 a right or obligation imposed on license holders applies to nurses
19 practicing in this state under a license issued by a state that is a
20 party to the Nurse Licensure Compact unless that determination is
21 inconsistent with the Nurse Licensure Compact.

22 SECTION 3.79. Section 304.005, Occupations Code, as added
23 by Chapter 1420, Acts of the 77th Legislature, Regular Session,
24 2001, is amended to read as follows:

25 Sec. 304.005. ENFORCEMENT. The Board of Nurse Examiners is
26 [~~and the Board of Vocational Nurse Examiners are~~] the state agency
27 [~~agencies~~] responsible for taking action against registered and

1 vocational nurses practicing in this state under a license issued
2 by a state that is a party to the Nurse Licensure Compact as
3 authorized by the Nurse Licensure Compact. The action shall be
4 taken in accordance with the same procedures for taking action
5 against registered and vocational nurses licensed by this state.

6 SECTION 3.80. Section 304.006(a), Occupations Code, as
7 added by Chapter 1420, Acts of the 77th Legislature, Regular
8 Session, 2001, is amended to read as follows:

9 (a) On request and payment of a reasonable fee, the Board of
10 Nurse Examiners [~~and the Board of Vocational Nurse Examiners~~] shall
11 provide a registered or vocational nurse licensed by this state
12 with a copy of information regarding the nurse maintained by the
13 coordinated licensure information system under Article 7 of the
14 Nurse Licensure Compact.

15 SECTION 3.81. Section 304.007, Occupations Code, as added
16 by Chapter 1420, Acts of the 77th Legislature, Regular Session,
17 2001, is amended to read as follows:

18 Sec. 304.007. ACCESS TO PRACTICE-RELATED INFORMATION.
19 Practice-related information provided by the Board of Nurse
20 Examiners [~~or the Board of Vocational Nurse Examiners~~] to
21 registered or vocational nurses licensed by this state shall be
22 made available by the board [~~boards~~] on request and at a reasonable
23 cost to nurses practicing in this state under a license issued by a
24 state that is a party to the Nurse Licensure Compact.

25 SECTION 3.82. Section 304.008(a), Occupations Code, as
26 added by Chapter 1420, Acts of the 77th Legislature, Regular
27 Session, 2001, is amended to read as follows:

1 (a) In reporting information to the coordinated licensure
2 information system under Article 7 of the Nurse Licensure Compact,
3 the Board of Nurse Examiners [~~and the Board of Vocational Nurse~~
4 ~~Examiners~~] may disclose personally identifiable information about
5 the nurse, including social security number.

6 SECTION 3.83. Section 304.009, Occupations Code, as added
7 by Chapter 1420, Acts of the 77th Legislature, Regular Session,
8 2001, is amended to read as follows:

9 Sec. 304.009. WITHDRAWAL FROM COMPACT. (a) The governor
10 may withdraw this state from the Nurse Licensure Compact if the
11 Board of Nurse Examiners [~~or the Board of Vocational Nurse~~
12 ~~Examiners~~] notifies the governor that a state that is party to the
13 compact changed, after January 1, 1999, the state's requirements
14 for licensing a nurse and that the state's requirements, as
15 changed, are substantially lower than the requirements for
16 licensing a nurse in this state.

17 (b) The governor may completely withdraw this state from the
18 Nurse Licensure Compact or may limit withdrawal to the application
19 of the compact to registered nurses or [~~licensed~~] vocational
20 nurses.

21 SECTION 3.84. Section 304.001(3), Occupations Code, as
22 added by Chapter 1489, Acts of the 77th Legislature, Regular
23 Session, 2001, is amended to read as follows:

24 (3) "Nurse" means a registered nurse or a [~~licensed~~]
25 vocational nurse.

26 DIVISION 3. REPEALER; TRANSITION; EFFECTIVE DATE

27 SECTION 3.85. On February 1, 2004, the following laws are

1 repealed:

2 (1) Chapter 302, Occupations Code; and

3 (2) Section 303.002(a), Occupations Code.

4 SECTION 3.86. The Sunset Advisory Commission shall review
5 the Board of Nurse Examiners under Chapter 325, Government Code
6 (Texas Sunset Act), for the 79th Legislature. The Sunset Advisory
7 Commission shall limit the scope of its review to recommending the
8 adoption of applicable across-the-board recommendations.

9 SECTION 3.87. (a) This section provides for the
10 appointment of members to the Board of Nurse Examiners for terms
11 beginning February 1, 2004, to establish the staggering of members'
12 terms in accordance with Sections 301.051 and 301.054, Occupations
13 Code, as amended by this Act.

14 (b) The term of one of two registered nurse members of the
15 Board of Nurse Examiners scheduled to expire in 2007 expires
16 January 31, 2004. Those members shall agree or draw lots to
17 determine whose term expires on that date. Effective February 1,
18 2004, the governor shall appoint one person who is a nurse faculty
19 member of a school of nursing offering vocational nurse training to
20 fill that vacancy and to serve a term expiring January 31, 2007.

21 (c) Effective February 1, 2004, the governor shall appoint
22 one person who shall serve as a public member of the Board of Nurse
23 Examiners with a term expiring January 31, 2009, as provided under
24 Section 301.051, Occupations Code, as amended by this Act.

25 (d) Effective February 1, 2004, the governor shall appoint
26 three additional members to the Board of Nurse Examiners to serve in
27 the position of vocational nurse, as provided under Section

1 301.051, Occupations Code, as amended by this Act. In appointing
2 those members, the governor shall appoint one person to a term
3 expiring January 31, 2005, one to a term expiring January 31, 2007,
4 and one to a term expiring January 31, 2009.

5 SECTION 3.88. (a) On February 1, 2004:

6 (1) all functions and activities performed by the
7 Board of Vocational Nurse Examiners immediately before that date
8 are transferred to the Board of Nurse Examiners;

9 (2) a rule or form adopted by the Board of Vocational
10 Nurse Examiners is a rule or form of the Board of Nurse Examiners
11 and remains in effect until amended or replaced by that board;

12 (3) a reference in law or an administrative rule to the
13 Board of Vocational Nurse Examiners means the Board of Nurse
14 Examiners;

15 (4) a complaint, investigation, or other proceeding
16 before the Board of Vocational Nurse Examiners is transferred
17 without change in status to the Board of Nurse Examiners, and the
18 Board of Nurse Examiners assumes, as appropriate and without a
19 change in status, the position of the Board of Vocational Nurse
20 Examiners in an action or proceeding to which the Board of
21 Vocational Nurse Examiners is a party;

22 (5) all money, contracts, leases, property, and
23 obligations of the Board of Vocational Nurse Examiners are
24 transferred to the Board of Nurse Examiners;

25 (6) a license issued by the Board of Vocational Nurse
26 Examiners is a license of the Board of Nurse Examiners;

27 (7) an employee of the Board of Vocational Nurse

1 Examiners, except for the Board of Vocational Nurse Examiners'
2 executive director, becomes an employee of the Board of Nurse
3 Examiners; and

4 (8) the unexpended and unobligated balance of any
5 money appropriated by the legislature for the Board of Vocational
6 Nurse Examiners is transferred to the Board of Nurse Examiners.

7 (b) Before February 1, 2004, the Board of Vocational Nurse
8 Examiners may agree with the Board of Nurse Examiners to transfer
9 any property of the Board of Vocational Nurse Examiners to the Board
10 of Nurse Examiners to implement the transfer required by this
11 section.

12 (c) In the period beginning on the effective date of this
13 Act and ending on January 31, 2004, the Board of Vocational Nurse
14 Examiners shall continue to perform functions and activities under
15 Chapter 302, Occupations Code, or other law as if that chapter had
16 not been repealed or other law had not been amended by this Act, and
17 the former law is continued in effect for that purpose.

18 SECTION 3.89. Division 2 of this article takes effect
19 February 1, 2004.

20 ARTICLE 4. IMPOSITION OF CERTAIN FEES

21 SECTION 4.01. Subchapter B, Chapter 1052, Occupations Code,
22 is amended by adding Section 1052.0541 to read as follows:

23 Sec. 1052.0541. FEE INCREASE. (a) The fee for the issuance
24 of a certificate of registration under this chapter and the fee for
25 the renewal of a certificate of registration under this chapter is
26 increased by \$200.

27 (b) Of each fee increase collected, \$50 shall be deposited

1 in the foundation school fund and \$150 shall be deposited in the
2 general revenue fund.

3 SECTION 4.02. Subchapter B, Chapter 1053, Occupations Code,
4 is amended by adding Section 1053.0521 to read as follows:

5 Sec. 1053.0521. 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 4.03. Subchapter D, Chapter 1071, Occupations Code,
13 is amended by adding Section 1071.1521 to read as follows:

14 Sec. 1071.1521. FEE INCREASE. (a) The fee for the issuance
15 of a certificate of registration to a registered professional land
16 surveyor under this chapter and the fee for the renewal of a
17 certificate of registration for a registered professional land
18 surveyor under this chapter is increased by \$200.

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

22 SECTION 4.04. Subchapter B, Chapter 1152, Occupations Code,
23 is amended by adding Section 1152.053 to read as follows:

24 Sec. 1152.053. FEE INCREASE. (a) The fee for the
25 registration of a person under this chapter and the fee for the
26 renewal of a registration under this chapter is increased by \$200.

27 (b) Of each fee increase collected, \$50 shall be deposited

1 in the foundation school fund and \$150 shall be deposited in the
2 general revenue fund.

3 SECTION 4.05. The change in law made by this article applies
4 only to the issuance or renewal of a certificate of registration
5 under Chapter 1052, 1053, or 1071, Occupations Code, or the
6 issuance or renewal of a registration under Chapter 1151,
7 Occupations Code, on or after the effective date of this article. A
8 certificate of registration or registration issued or renewed
9 before the effective date of this article is governed by the law in
10 effect on the date of the issuance or renewal, and the former law is
11 continued in effect for that purpose.

12 ARTICLE 5. FACILITIES MANAGEMENT SERVICES

13 SECTION 5.01. Subchapter A, Chapter 2165, Government Code,
14 is amended by adding Section 2165.007 to read as follows:

15 Sec. 2165.007. FACILITIES MANAGEMENT SERVICES. (a) In this
16 section, "facilities management services" means any state agency
17 facilities management service that is not unique to carrying out a
18 program of the agency. The term includes services related to
19 facilities construction, facilities management, general building
20 and grounds maintenance, cabling, and facility reconfiguration.

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

25 (1) a facility owned or operated by an institution of
26 higher education;

27 (2) military facilities;

1 (3) prison facilities;

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

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

7 SECTION 5.02. Subchapter B, Chapter 2165, Government Code,
8 is amended by adding Section 2165.057 to read as follows:

9 Sec. 2165.057. MANAGEMENT OF FACILITIES. (a) The
10 commission shall develop and implement policies that clearly define
11 the responsibilities of the commission and the commission's staff
12 that relate to conducting facilities management services for state
13 agency facilities under Section 2165.007.

14 (b) The state energy conservation office shall provide
15 utility management services for state agency facilities for which
16 the commission provides facilities management services under
17 Section 2165.007.

18 SECTION 5.03. On September 1, 2003:

19 (1) all powers and duties of a state agency that relate
20 to the facilities management services treated by Section
21 2165.007(b), Government Code, as added by this Act, are transferred
22 to the Texas Building and Procurement Commission or the state
23 energy conservation office, as appropriate;

24 (2) all obligations and contracts of a state agency
25 that relate to the transferred services are transferred to the
26 Texas Building and Procurement Commission or the state energy
27 conservation office, as appropriate;

1 (3) all records and other property in the custody of a
2 state agency that relate to the transferred services and all funds
3 appropriated by the legislature to a state agency that relate to the
4 transferred services are transferred to the Texas Building and
5 Procurement Commission or the state energy conservation office, as
6 appropriate;

7 (4) all complaints and investigations that are pending
8 before a state agency that relate to the transferred services are
9 transferred without change in status to the Texas Building and
10 Procurement Commission or the state energy conservation office, as
11 appropriate; and

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

17 ARTICLE 6. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES

18 SECTION 6.01. Subchapter E, Chapter 2165, Government Code,
19 is amended by adding Section 2165.2035 to read as follows:

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

23 (b) The commission shall develop private, commercial uses
24 for state-owned parking lots and garages located in the city of
25 Austin at locations the commission determines are appropriate for
26 commercial uses.

27 (c) The commission may contract with a private vendor to

1 manage the commercial use of state-owned parking lots and garages.

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

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

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

11 (g) Any lease of a state-owned parking lot or garage under
12 this section must contain a provision that allows state employees
13 who work hours other than regular working hours under Section
14 658.005 to retain their parking privileges in a state-owned parking
15 lot or garage.

16 ARTICLE 7. ALLOCATION OF OFFICE SPACE TO STATE AGENCIES

17 SECTION 7.01. Section 2165.104(c), Government Code, is
18 amended to read as follows:

19 (c) To the extent possible without sacrificing critical
20 public or client services, the commission may not allocate usable
21 office space, as defined by the commission, to a state agency under
22 Article I, II, V, VI, VII, or VIII of the General Appropriations Act
23 or to the Texas Higher Education Coordinating Board, the Texas
24 Education Agency, the State Board for Educator Certification, the
25 Telecommunications Infrastructure Fund Board, or the Office of
26 Court Administration of the Texas Judicial System in an amount that
27 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 7.02. This article applies only to a lease for usable office space entered into or renewed on or after September 1, 2003. A lease entered into or renewed before September 1, 2003, shall be reviewed by the Texas Building and Procurement Commission as the lease comes up for renewal to determine whether it would be cost-effective to bring the lease into compliance with Section 2165.104(c), Government Code, as amended by this article.

ARTICLE 8. GENERAL STATE PROCUREMENT

SECTION 8.01. Section 2171.101(a), Government Code, is amended to read as follows:

(a) The office of vehicle fleet management shall establish a vehicle reporting system to assist each state agency in the management of its vehicle fleet. A state agency shall be required to submit the reports on a monthly basis [~~not more often than semiannually~~].

SECTION 8.02. Sections 2171.102(a) and (b), Government Code, are amended to read as follows:

(a) The office of vehicle fleet management may, for a fee, [~~shall~~] provide routine periodic maintenance service to state agencies located in Travis County. [~~The office shall charge a fee for the service.~~]

(b) The office may [~~shall~~] negotiate contracts for major overhauls and other extensive mechanical work.

SECTION 8.03. Sections 2171.104(c) and (d), Government Code, are amended to read as follows:

(c) The management plan must address:

(1) opportunities for consolidating and privatizing the operation and management of vehicle fleets in areas where there is a concentration of state agencies, including the Capitol Complex and the Health and Human Services Complex in Austin;

(2) the number and type of vehicles owned by each agency and the purpose each vehicle serves;

(3) procedures to increase vehicle use and improve the efficiency of the state vehicle fleet;

(4) procedures to reduce the cost of maintaining state

1 vehicles;

2 (5) procedures to handle surplus or salvage [~~the sale~~
3 ~~of excess~~] state vehicles; and

4 (6) lower-cost alternatives to using state-owned
5 vehicles, including:

6 (A) using rental cars; and

7 (B) reimbursing employees for using personal
8 vehicles.

9 (d) The commission shall require a state agency to transfer
10 surplus or salvage vehicles identified by the management plan to
11 the commission and shall sell or dispose of the [~~excess~~] vehicles in
12 accordance with the provisions of Chapter 2175 that provide for
13 disposition of surplus or salvage property by the commission
14 ~~[identified by the management plan and deposit the proceeds from~~
15 ~~the sale into the account that the agency used to purchase the~~
16 ~~vehicles].~~

17 SECTION 8.04. Section 51.9335(b), Education Code, is
18 amended to read as follows:

19 (b) In determining what is the best value to an institution
20 of higher education, the institution shall consider:

21 (1) the purchase price;

22 (2) the reputation of the vendor and of the vendor's
23 goods or services;

24 (3) the quality of the vendor's goods or services;

25 (4) the extent to which the goods or services meet the
26 institution's needs;

27 (5) the vendor's past relationship with the

institution;

(6) the impact on the ability of the institution to comply with laws and rules relating to historically underutilized businesses and to the procurement of goods and services from persons with disabilities;

(7) the total long-term cost to the institution of acquiring the vendor's goods or services; and

(8) any other relevant factor that a private business entity would consider in selecting a vendor[; ~~and~~

~~[(9) the use of material in construction or repair to real property that is not proprietary to a single vendor unless the institution provides written justification in the request for bids for use of the unique material specified].~~

SECTION 8.05. Chapter 2151, Government Code, is amended by adding Section 2151.005 to read as follows:

Sec. 2151.005. EXEMPTIONS RELATED TO LEGAL SERVICES. This subtitle does not apply to:

(1) obtaining outside legal counsel services;

(2) obtaining expert witnesses; or

(3) procuring litigation-related goods and services for which competitive procurement is not feasible under the circumstances.

SECTION 8.06. Section 2155.078(k), Government Code, is amended to read as follows:

(k) The commission shall require a reasonable number of [24] hours of continuing education [~~each year~~] to maintain a certification level. The commission may allow attendance at

1 equivalent certification training recognized by the commission to
2 count toward the required number of [~~up to 16~~] hours [~~of the~~
3 ~~continuing education requirement~~]. Maintenance of the
4 certification level may be by yearly renewal or another reasonable
5 renewal period comparable to nationally recognized certification
6 requirements.

7 SECTION 8.07. Section 2155.141, Government Code, is amended
8 to read as follows:

9 Sec. 2155.141. [~~CERTAIN OTHER~~] PURCHASES FOR AUXILIARY
10 ENTERPRISE NOT WITHIN COMMISSION'S PURCHASING AUTHORITY. The
11 commission's authority does not extend to a purchase of goods and
12 services[~~+~~

13 [~~(1) for resale,~~

14 [~~(2)~~] for an auxiliary enterprise[~~, or~~

15 [~~(3) for an organized activity relating to an~~
16 ~~instructional department of an institution of higher learning or a~~
17 ~~similar activity of another state agency~~].

18 SECTION 8.08. Subchapter C, Chapter 2155, Government Code,
19 is amended by adding Section 2155.148 to read as follows:

20 Sec. 2155.148. CERTAIN PURCHASES FOR TEXAS STATEWIDE
21 EMERGENCY SERVICES PERSONNEL RETIREMENT FUND. (a) The fire
22 fighters' pension commissioner is delegated all purchasing
23 functions relating to the purchase of goods or services from funds
24 other than general revenue funds for a purpose the state board of
25 trustees of the Texas statewide emergency services personnel
26 retirement fund determines relates to the fiduciary duties of the
27 retirement fund.

1 (b) The fire fighters' pension commissioner shall acquire
2 goods or services by any procurement method approved by the state
3 board of trustees of the Texas statewide emergency services
4 personnel retirement fund that provides the best value to the
5 retirement fund. The fire fighters' pension commissioner shall
6 consider the best value standards provided by Section 2155.074.

7 (c) The commission shall procure goods or services for the
8 fire fighters' pension commissioner at the request of the pension
9 commissioner, and the pension commissioner may use the services of
10 the commission in procuring goods or services.

11 SECTION 8.09. Subchapter I, Chapter 2155, Government Code,
12 is amended by adding Section 2155.510 to read as follows:

13 Sec. 2155.510. REBATES. The commission may collect a
14 rebate from a vendor under a contract listed on a schedule developed
15 under this subchapter.

16 SECTION 8.10. The heading to Subchapter B, Chapter 2157,
17 Government Code, is amended to read as follows:

18 SUBCHAPTER B. CATALOG [~~CATALOGUE~~] PURCHASE METHOD

19 SECTION 8.11. Section 2157.061, Government Code, is amended
20 to read as follows:

21 Sec. 2157.061. USE OF CATALOG [~~CATALOGUE~~] PURCHASE METHOD
22 REQUIRED UNLESS BEST VALUE AVAILABLE ELSEWHERE. The commission or
23 a state agency shall purchase an automated information system
24 through the catalog [~~catalogue~~] procedure provided by this
25 subchapter unless the commission or state agency determines that
26 the best value may be obtained from another purchase method
27 authorized by this subtitle.

SECTION 8.12. 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 8.13. 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:

1 (A) a description;

2 (B) the list price; and

3 (C) the price to a state agency;

4 (2) maintain a maintenance, repair, and support plan
5 for each eligible product or service;

6 (3) provide on request proof of the applicant's
7 financial resources and ability to perform; and

8 (4) provide a guarantee that the vendor will make
9 available equivalent replacement parts for a product sold to the
10 state until at least the third anniversary of the date the product
11 is discontinued.

12 SECTION 8.14. Section 2157.063(a), Government Code, is
13 amended to read as follows:

14 (a) If a purchase or lease is the best value available and is
15 in the state's best interest, a state agency may under this
16 subchapter purchase or lease an automated information system
17 directly from a catalog [~~qualified~~] information systems vendor and
18 may negotiate price and additional terms and conditions to be
19 included in a contract relating to the purchase or lease.

20 SECTION 8.15. Section 2157.066, Government Code, is amended
21 by amending Subsections (a), (b), and (f) and adding Subsection (g)
22 to read as follows:

23 (a) A catalog [~~vendor designated by the commission as a~~
24 ~~qualified~~] information systems vendor shall publish and maintain a
25 catalog [~~catalogue~~] described by Section 2157.062(1)
26 [~~2157.062(b)(1)~~] in the manner required by the commission.

27 (b) The vendor shall revise the catalog [~~catalogue~~] as

1 necessary in the manner required by the commission.

2 (f) The commission may audit a catalog [~~qualified~~]
3 information systems vendor's catalog [~~approved catalogue~~] for
4 compliance with rules adopted under Subsection (g) [~~(e)~~].

5 (g) The commission shall adopt rules that specify the
6 requirements for a catalog information systems vendor's
7 maintenance of Internet catalogs, including:

8 (1) availability;

9 (2) format; and

10 (3) other relevant requirements.

11 SECTION 8.16. Section 2157.067(a), Government Code, is
12 amended to read as follows:

13 (a) The commission shall make the catalog [~~catalogue~~]
14 purchasing procedure available to a local government that qualifies
15 for cooperative purchasing under Sections 271.082 and 271.083,
16 Local Government Code.

17 SECTION 8.17. Section 2157.068(b), Government Code, is
18 amended to read as follows:

19 (b) The department shall negotiate with catalog [~~qualified~~]
20 information systems vendors to attempt to obtain a favorable price
21 for all of state government on licenses for commodity software
22 items, based on the aggregate volume of purchases expected to be
23 made by the state. The terms and conditions of a license agreement
24 between a vendor and the department under this section may not be
25 less favorable to the state than the terms of similar license
26 agreements between the vendor and retail distributors.

27 SECTION 8.18. Chapter 2254, Government Code, is amended by

adding Subchapter D to read as follows:

SUBCHAPTER D. OUTSIDE LEGAL SERVICES

Sec. 2254.151. DEFINITION. In this subchapter, "state agency" means a department, commission, board, authority, office, or other agency in the executive branch of state government created by the state constitution or a state statute.

Sec. 2254.152. APPLICABILITY. This subchapter does not apply to a contingent fee contract for legal services.

Sec. 2254.153. CONTRACTS FOR LEGAL SERVICES AUTHORIZED. Subject to Section 402.0212, a state agency may contract for outside legal services.

Sec. 2254.154. ATTORNEY GENERAL; COMPETITIVE PROCUREMENT. The attorney general may require state agencies to obtain outside legal services through a competitive procurement process, under conditions prescribed by the attorney general.

SECTION 8.19. Section 2262.001, Government Code, is amended by adding Subdivision (1-a) to read as follows:

(1-a) "Commission" means the Texas Building and Procurement Commission.

SECTION 8.20. Sections 2262.051(a) and (b), Government Code, are amended to read as follows:

(a) In consultation with the attorney general [~~Texas Building and Procurement Commission~~], the Department of Information Resources, the comptroller, and the state auditor, the commission [~~attorney general~~] shall develop or [~~and~~] periodically update a contract management guide for use by state agencies.

(b) The commission [~~attorney general~~] may adopt rules

1 necessary to develop or update the guide.

2 SECTION 8.21. Section 2262.052(b), Government Code, is
3 amended to read as follows:

4 (b) The state auditor shall:

5 (1) periodically monitor compliance with this
6 section;

7 (2) report any noncompliance to:

8 (A) the governor;

9 (B) the lieutenant governor;

10 (C) the speaker of the house of representatives;
11 and

12 (D) the team; and

13 (3) assist, in coordination with the commission
14 ~~[attorney general]~~ and the comptroller, a noncomplying state agency
15 to comply with this section.

16 SECTION 8.22. Section 2262.053(a), Government Code, is
17 amended to read as follows:

18 (a) In coordination with the ~~[Texas Building and~~
19 ~~Procurement Commission, the]~~ comptroller, ~~[and the]~~ Department of
20 Information Resources, and ~~[the]~~ state auditor, the commission
21 shall develop or administer a training program for contract
22 managers.

23 SECTION 8.23. Section 2262.054, Government Code, is amended
24 to read as follows:

25 Sec. 2262.054. PUBLIC COMMENT. The commission ~~[attorney~~
26 ~~general]~~ by rule may establish procedures by which each state
27 agency is required to invite public comment by publishing the

1 proposed technical specifications for major contracts on the
2 Internet through the information service known as the Texas
3 Marketplace or through a suitable successor information service.
4 The guide must define "technical specifications."

5 SECTION 8.24. Section 2262.101, Government Code, is amended
6 to read as follows:

7 Sec. 2262.101. CREATION; DUTIES. The Contract Advisory
8 Team is created to assist state agencies in improving contract
9 management practices by:

10 (1) reviewing the solicitation of major contracts by
11 state agencies;

12 (2) reviewing any findings or recommendations made by
13 the state auditor, including those made under Section 2262.052(b),
14 regarding a state agency's compliance with the contract management
15 guide; and

16 (3) providing recommendations to the commission
17 regarding:

18 (A) [~~the attorney general regarding~~] the
19 development of the contract management guide; and

20 (B) [~~the state auditor regarding~~] the training
21 under Section 2262.053.

22 SECTION 8.25. Sections 2155.078(n), 2155.142, 2155.144,
23 2155.1441, 2157.001(2), 2157.064, 2157.065, 2157.066(c) and (d),
24 and 2261.001(e), Government Code, are repealed.

25 SECTION 8.26. The changes in law made by this article to
26 Section 2155.141, Government Code, apply only to a purchase made on
27 or after the effective date of this article. A purchase made before

1 the effective date of this article is covered by the law in effect
2 when the purchase was made, and the former law is continued in
3 effect for that purpose.

4 SECTION 8.27. (a) In this section, "commission" means the
5 Texas Building and Procurement Commission.

6 (b) Not later than February 1, 2004:

7 (1) the attorney general and state auditor shall
8 complete the transfer of powers and duties to the commission under
9 Chapter 2262, Government Code, as amended by this Act;

10 (2) a rule or form adopted by the attorney general or
11 state auditor under Chapter 2262, Government Code, is a rule or form
12 of the commission and remains in effect until changed by the
13 commission;

14 (3) the commission assumes, without a change in
15 status, the position of the attorney general or state auditor with
16 respect to any matter regarding which the duties of the attorney
17 general or state auditor under Chapter 2262, Government Code, have
18 been transferred to the commission;

19 (4) all property, including records, and rights and
20 obligations of the attorney general and state auditor related to
21 those entities' express duties under Chapter 2262, Government Code,
22 are transferred to the commission; and

23 (5) all funds appropriated by the legislature to the
24 attorney general and state auditor related to those entities'
25 express powers and duties under Chapter 2262, Government Code, are
26 transferred to the commission.

27 SECTION 8.28. Section 2175.061, Government Code, is amended

1 by adding Subsection (c) to read as follows:

2 (c) The commission may by rule determine the best method of
3 disposal for surplus and salvage property of the state under this
4 chapter.

5 SECTION 8.29. Section 2175.134(a), Government Code, is
6 amended to read as follows:

7 (a) Proceeds from the sale of surplus or salvage property,
8 less the cost of advertising the sale, the cost of selling the
9 surplus or salvage property, including the cost of auctioneer
10 services, and the amount of the fee collected under Section
11 2175.131, shall be deposited to the credit of the general revenue
12 fund of the state treasury ~~[appropriate appropriation item of the~~
13 ~~state agency for which the sale was made]~~.

14 SECTION 8.30. Section 2175.182(a), Government Code, is
15 amended to read as follows:

16 (a) The commission is responsible for the disposal of
17 surplus or salvage property under this subchapter. The commission
18 may take physical possession of the property. ~~[A state agency~~
19 ~~maintains ownership of property throughout the disposal process.]~~

20 SECTION 8.31. Section 2175.185(b), Government Code, is
21 amended to read as follows:

22 (b) On receiving notice under this section, the comptroller
23 shall, if necessary, [+]

24 ~~[(1) debit and credit the proper appropriations, and~~
25 ~~[(2)]~~ adjust state property accounting records.

26 SECTION 8.32. Section 2175.191(a), Government Code, is
27 amended to read as follows:

1 (a) Proceeds from the sale of surplus or salvage property,
2 less the cost of advertising the sale, the cost of selling the
3 surplus or salvage property, including the cost of auctioneer
4 services, and the amount of the fee collected under Section
5 2175.188, shall be deposited to the credit of the general revenue
6 fund of the state treasury [~~appropriate appropriation item of the~~
7 ~~state agency for which the sale was made~~].

8 SECTION 8.33. Section 2175.303, Government Code, is amended
9 to read as follows:

10 Sec. 2175.303. EXCEPTION FOR CERTAIN PROPERTY [~~PRODUCTS~~].
11 This chapter does not apply to disposition of:

12 (1) a product or by-product of research, forestry,
13 agriculture, livestock, or an industrial enterprise; [~~or~~]

14 (2) certain recyclable materials, including paper,
15 cardboard, aluminum cans, plastics, glass, one-use pallets, used
16 tires, used oil, and scrap metal, when the disposition is not in the
17 best interest of the state or economically feasible;

18 (3) property acquired by a state agency with money
19 from the state highway fund; or

20 (4) property given or granted to a state agency.

21 SECTION 8.34. Section 2175.361, Government Code, is amended
22 to read as follows:

23 Sec. 2175.361. DEFINITIONS. In this subchapter:

24 (1) "Federal act" means the Federal Property and
25 Administrative Services Act of 1949 (40 U.S.C. Section 541 et seq.
26 [~~484~~]), as amended, or any other federal law providing for the
27 disposal of federal surplus property.

1 (2) "Federal property" means federal surplus property
2 acquired:

3 (A) by the commission or under the commission's
4 jurisdiction under this subchapter; and

5 (B) under 40 U.S.C. Section 483c, 549, or 550, or
6 under any other federal law providing for the disposal ~~[Section~~
7 ~~484(j) or (k)]~~ of ~~[the]~~ federal surplus property ~~[act]~~. ~~[The term~~
8 ~~includes federal real property acquired under Section 484(k) of the~~
9 ~~federal act.]~~

10 SECTION 8.35. Section 2175.362(a), Government Code, is
11 amended to read as follows:

12 (a) The commission is the designated state agency under 40
13 U.S.C. Section 549 and any other federal law providing for the
14 disposal ~~[484(j)]~~ of ~~[the]~~ federal surplus property ~~[act]~~.

15 SECTION 8.36. Section 2175.364, Government Code, is amended
16 to read as follows:

17 Sec. 2175.364. COMMISSION ASSISTANCE IN PROCUREMENT AND USE
18 OF PROPERTY. The commission may:

19 (1) disseminate information and assist a potential
20 applicant regarding the availability of federal real property;

21 (2) assist in the processing of an application for
22 acquisition of federal real property and related personal property
23 under 40 U.S.C. Section 550 or any other federal law providing for
24 the disposal ~~[484(k)]~~ of ~~[the]~~ federal surplus property ~~[act]~~;

25 (3) act as an information clearinghouse for an entity
26 that may be eligible to acquire federal property and, as necessary,
27 assist the entity to obtain federal property;

1 (4) assist in assuring use of the property; and

2 (5) engage in an activity relating to the use of
3 federal property by another state agency, institution, or
4 organization engaging in or receiving assistance under a federal
5 program.

6 SECTION 8.37. Section 2175.367, Government Code, is amended
7 to read as follows:

8 Sec. 2175.367. CONTRACTS. The commission may enter into an
9 agreement, including:

10 (1) a cooperative agreement with a federal agency
11 under 40 U.S.C. Section 549 or any other federal law providing for
12 the disposal [484(n)] of [the] federal surplus property [act];

13 (2) an agreement with a state agency for surplus
14 property of a state agency that will promote the administration of
15 the commission's functions under this subchapter; or

16 (3) an agreement with a group or association of state
17 agencies for surplus property that will promote the administration
18 of the commission's functions under this subchapter.

19 SECTION 8.38. Sections 2175.134(b) and 2175.191(b),
20 Government Code, are repealed.

21 SECTION 8.39. This article applies only to surplus and
22 salvage property of the state sold on or after September 1, 2003.

23 SECTION 8.40. Section 2166.2531(d), Government Code, is
24 amended to read as follows:

25 (d) The commission shall prepare a request for
26 qualifications that includes general information on the project
27 site, project scope, ~~[budget]~~ special systems, selection

1 criteria, and other information that may assist potential
2 design-build firms in submitting proposals for the project. The
3 commission shall also prepare a design criteria package that
4 includes more detailed information on the project. If the
5 preparation of the design criteria package requires engineering or
6 architectural services that constitute the practice of engineering
7 within the meaning of The Texas Engineering Practice Act (Article
8 3271a, Vernon's Texas Civil Statutes) or the practice of
9 architecture within the meaning of Chapter 478, Acts of the 45th
10 Legislature, Regular Session, 1937 (Article 249a, Vernon's Texas
11 Civil Statutes), those services shall be provided in accordance
12 with the applicable law.

13 SECTION 8.41. Sections 2166.2532(e) and (g), Government
14 Code, are amended to read as follows:

15 (e) The commission shall select the construction
16 manager-at-risk in either a one-step or two-step process. The
17 commission shall prepare a request for proposals, in the case of a
18 one-step process, or a request for qualifications, in the case of a
19 two-step process, that includes general information on the project
20 site, project scope, schedule, selection criteria, [~~estimated~~
21 ~~budget,~~] and the time and place for receipt of proposals or
22 qualifications, as applicable; a statement as to whether the
23 selection process is a one-step or two-step process; and other
24 information that may assist the commission in its selection of a
25 construction manager-at-risk. The commission shall state the
26 selection criteria in the request for proposals or qualifications,
27 as applicable. The selection criteria may include the offeror's

1 experience, past performance, safety record, proposed personnel
 2 and methodology, and other appropriate factors that demonstrate the
 3 capability of the construction manager-at-risk. If a one-step
 4 process is used, the commission may request, as part of the
 5 offeror's proposal, proposed fees and prices for fulfilling the
 6 general conditions. If a two-step process is used, the commission
 7 may not request fees or prices in step one. In step two, the
 8 commission may request that five or fewer offerors, selected solely
 9 on the basis of qualifications, provide additional information,
 10 including the construction manager-at-risk's proposed fee and its
 11 price for fulfilling the general conditions.

12 (g) At each step, the commission shall receive, publicly
 13 open, and read aloud the names of the offerors. ~~[At the appropriate~~
 14 ~~step, the commission shall also read aloud the fees and prices, if~~
 15 ~~any, stated in each proposal as the proposal is opened.]~~ Within 45
 16 days after the date of opening the proposals, the commission or its
 17 representative shall evaluate and rank each proposal submitted in
 18 relation to the criteria set forth in the request for proposals.

19 SECTION 8.42. Sections 2166.2533(d) and (f), Government
 20 Code, are amended to read as follows:

21 (d) The commission shall prepare a request for competitive
 22 sealed proposals that includes construction documents, selection
 23 criteria, ~~[estimated budget,]~~ project scope, schedule, and other
 24 information that contractors may require to respond to the request.
 25 The commission shall state in the request for proposals all of the
 26 selection criteria that will be used in selecting the successful
 27 offeror.

1 (f) The commission shall receive, publicly open, and read
2 aloud the names of the offerors [~~and, if any are required to be~~
3 ~~stated, all prices stated in each proposal~~]. Within 45 days after
4 the date of opening the proposals, the commission shall evaluate
5 and rank each proposal submitted in relation to the published
6 selection criteria.

7 SECTION 8.43. Subchapter F, Chapter 2166, Government Code,
8 is amended by adding Section 2166.260 to read as follows:

9 Sec. 2166.260. APPROVAL OF CERTAIN EXPENDITURES REQUIRED.
10 A state agency may not spend more than the amount authorized for the
11 cost of a project unless the governor and the Legislative Budget
12 Board approve the expenditure. Once the cost of a project reaches
13 the amount authorized for the project, each change to approved
14 project plans must be approved by the governor and the Legislative
15 Budget Board.

16 SECTION 8.44. Section 2166.305(b), Government Code, is
17 amended to read as follows:

18 (b) A committee appointed by the commission shall perform
19 the review. The committee consists of:

20 (1) the director of facilities construction and space
21 management appointed under Section 2152.104, who serves [~~ex~~
22 ~~officio~~] as the presiding officer of the committee [~~and who votes~~
23 ~~only in case of a tie~~];

24 (2) seven individuals appointed by the commission, one
25 each from the lists of nominees submitted respectively by the:

26 (A) president of the Texas Society of Architects;

27 (B) president of the Texas Society of

1 Professional Engineers;

2 (C) presiding officer of the Executive Council of
3 the Texas Associated General Contractors Chapters;

4 (D) executive secretary of the Mechanical
5 Contractors Associations of Texas, Incorporated;

6 (E) executive secretary of the Texas Building and
7 Construction Trades Council;

8 (F) president of the Associated Builders and
9 Contractors of Texas; and

10 (G) executive director of the National
11 Association of Minority Contractors, with the list composed of
12 persons who reside in this state;

13 (3) one individual appointed by the commission
14 representing an institution of higher education, as defined by
15 Section 61.003, Education Code;

16 (4) one individual appointed by the commission
17 representing a state agency that has a substantial ongoing
18 construction program; ~~and~~

19 (5) one individual appointed by the commission
20 representing the attorney general's office; and

21 (6) one individual appointed by the commission
22 representing the interests of historically underutilized
23 businesses.

24 SECTION 8.45. Section 2166.201, Government Code, is
25 repealed.

26 SECTION 8.46. This article applies only to a Texas Building
27 and Procurement Commission request for competitive proposals under

Chapter 2166, Government Code, as amended by this article, on or after September 1, 2003.

ARTICLE 9. RETIREMENT SYSTEM CREDIT ESTABLISHED BY STATE
EMPLOYEES

SECTION 9.01. Section 812.003, Government Code, is amended by amending Subsection (d) and adding Subsections (e) and (f) to read as follows:

(d) Membership in the employee class begins on the 91st day after the first day a person is employed or holds office.

(e) A person who is reemployed or who again holds office after withdrawing contributions under Subchapter B for previous service credited in the employee class begins membership in the employee class on the 91st day after the first day the person is reemployed or again holds office.

(f) Notwithstanding any other provision of law, a member may establish credit only as provided by Section 813.514 for service performed during the 90-day waiting period provided by Subsection (d) or (e).

SECTION 9.02. Subchapter F, Chapter 813, Government Code, is amended by adding Section 813.514 to read as follows:

Sec. 813.514. CREDIT PURCHASE OPTION FOR CERTAIN SERVICE.

(a) A member may establish credit under this section in the employee class only for service performed during the 90-day waiting period provided by Section 812.003(d) or (e).

(b) A member may establish service credit under this section by depositing with the retirement system, for each month of service credit, the actuarial present value, at the time of deposit, of the

1 additional standard retirement annuity benefits that would be
2 attributable to the purchase of the service credit under this
3 section based on rates and tables recommended by the retirement
4 system's actuary and adopted by the board of trustees.

5 (c) After a member makes the deposits required by this
6 section, the retirement system shall grant the member one month of
7 equivalent membership service credit for each month of credit
8 approved. A member may establish not more than three months of
9 equivalent membership service credit under this section.

10 (d) The retirement system shall deposit the amount of the
11 actuarial present value of the service credit purchased in the
12 member's individual account in the employees saving account.

13 (e) The board of trustees may adopt rules to administer this
14 section, including rules that impose restrictions on the
15 application of this section as necessary to cost-effectively
16 administer this section.

17 SECTION 9.03. Section 812.003, Government Code, as amended
18 by this article, and Section 813.514, Government Code, as added by
19 this article, apply only to a person who is first employed by or
20 begins to hold an office of the state on or after the effective date
21 of this article and to a former employee or office holder who has
22 withdrawn retirement contributions under Subchapter B, Chapter
23 812, Government Code, and is reemployed by or begins to again hold
24 an office of the state on or after the effective date of this
25 article.

26 ARTICLE 10. STATE AGENCY HUMAN RESOURCES STAFFING AND FUNCTIONS

27 SECTION 10.01. 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 functions are subject to the contract and which functions the agency may select to perform itself.

1 (d) Each agency shall pay for the contracts for human
2 resources functions out of the agency's human resources budget.

3 SECTION 10.02. (a) Not later than September 1, 2003, each
4 state agency with 500 or more full-time equivalent employees shall
5 comply with the human resources employee-to-staff ratio
6 requirements in Section 670.002, Government Code, as added by this
7 article.

8 (b) Not later than January 1, 2004, the State Council on
9 Competitive Government shall conduct an initial feasibility study
10 to determine the cost-effectiveness of consolidating the human
11 resources functions of or contracting with private entities to
12 perform human resources functions of state agencies under Section
13 670.003, Government Code, as added by this article.

14 ARTICLE 11. AGENCY STAFFING AND PRODUCTIVITY

15 SECTION 11.01. Subchapter K, Chapter 659, Government Code,
16 is amended by adding Section 659.262 to read as follows:

17 Sec. 659.262. ADDITIONAL COMPENSATION FOR CERTAIN
18 CLASSIFIED STATE EMPLOYEES. (a) In this section, "state agency"
19 means an agency of any branch of state government that employs
20 individuals who are classified under Chapter 654.

21 (b) To enhance the recruitment of competent personnel for
22 certain classified employee positions, a state agency may provide
23 to a state employee, at the time of the employee's hiring for a
24 classified position, additional compensation in the form of a
25 one-time recruitment payment not to exceed \$5,000. If the employee
26 discontinues employment with the state agency for any reason less
27 than three months after the date of receiving the recruitment

1 payment, the employee shall refund to the state agency the full
2 amount of the recruitment payment. If the employee discontinues
3 employment with the state agency for any reason three months or
4 longer but less than 12 months after the date of receiving the
5 recruitment payment, the employee shall refund to the state agency
6 an amount computed by:

7 (1) subtracting from 12 months the number of complete
8 calendar months the employee worked after the date of receiving the
9 recruitment payment;

10 (2) dividing the number of months computed under
11 Subdivision (1) by 12 months; and

12 (3) multiplying the fraction computed under
13 Subdivision (2) by the amount of the recruitment payment.

14 (c) To enhance the retention of employees who are employed
15 in certain classified positions that are identified by the chief
16 administrator of a state agency as essential for the state agency's
17 operations, a state agency may enter into a deferred compensation
18 contract with a classified employee to provide to the employee a
19 one-time additional compensation payment not to exceed \$5,000 to be
20 added to the employee's salary payment the month after the
21 conclusion of the 12-month period of service under the deferred
22 compensation contract.

23 (d) To be eligible to enter into a contract for deferred
24 compensation under Subsection (c), a state employee must have
25 already completed at least 12 months of service in a classified
26 position.

27 (e) The chief administrator of a state agency shall

1 determine whether additional compensation is necessary under this
2 section on a case-by-case basis, considering:

3 (1) the criticality of the employee position in the
4 operations of the state agency;

5 (2) evidence of high turnover rates among employees
6 filling the position or an extended period during which the
7 position is or has in the past been vacant;

8 (3) evidence of a shortage of employees qualified to
9 fill the position or a shortage of qualified applicants; and

10 (4) other relevant factors.

11 (f) Before an agency provides or enters into a contract to
12 provide additional compensation to an employee under this section,
13 the chief administrator of the state agency must certify to the
14 comptroller in writing the reasons why the additional compensation
15 is necessary.

16 (g) Additional compensation paid to an employee under this
17 section is specifically exempted from any limitation on salary or
18 salary increases prescribed by this chapter.

19 SECTION 11.02. Subtitle B, Title 6, Government Code, is
20 amended by adding Chapter 670 to read as follows:

21 CHAPTER 670. MANAGEMENT PERFORMANCE PROGRAM

22 Sec. 670.001. DEFINITION. In this chapter, "state agency"
23 means an agency in the executive branch of state government.

24 Sec. 670.002. UPPER MANAGEMENT PERFORMANCE
25 AGREEMENTS. (a) The governing body of a state agency shall
26 develop and enter into agreements with employees of the agency who
27 serve in upper management positions, including the chief executive

1 or chief administrator of the agency.

2 (b) An agreement under this section shall:

3 (1) communicate to the upper management employee the
4 agency's overall organizational goals and specific strategic aims;

5 (2) identify the specific performance measures and
6 targets applicable to the unique programs for which the upper
7 management employee is responsible; and

8 (3) explain the procedures that will be used by the
9 agency to hold the upper management employee accountable for
10 performance under the agreement, including annual performance
11 review procedures.

12 SECTION 11.03. Effective September 1, 2003, Section
13 651.004, Government Code, is amended by adding Subsections (c-1)
14 and (d) to read as follows:

15 (c-1) A state agency in the executive branch of state
16 government that employs more than 100 full-time equivalent
17 employees may not, after August 31, 2004, employ more than one
18 full-time equivalent employee in a management position for every
19 eight full-time equivalent employees that the agency employs in
20 nonmanagerial staff positions. This subsection expires September
21 1, 2005.

22 (d) A state agency that believes that the minimum
23 management-to-staff ratios required by this section are
24 inappropriate for that agency may appeal to the governor. The
25 governor's decision regarding management-to-staff ratios is final.
26 The governor by rule shall adopt appeal procedures.

27 SECTION 11.04. Effective September 1, 2004, Section

651.004, Government Code, is amended by adding Subsection (c-2) to read as follows:

(c-2) A state agency in the executive branch of state government that employs more than 100 full-time equivalent employees may not, after August 31, 2005, employ more than one full-time equivalent employee in a management position for every nine full-time equivalent employees that the agency employs in nonmanagerial staff positions. This subsection expires September 1, 2006.

SECTION 11.05. Effective September 1, 2005, Section 651.004, Government Code, is amended by adding Subsection (c-3) to read as follows:

(c-3) A state agency in the executive branch of state government that employs more than 100 full-time equivalent employees may not, after August 31, 2006, employ more than one full-time equivalent employee in a management position for every 10 full-time equivalent employees that the agency employs in nonmanagerial staff positions. This subsection expires September 1, 2007.

SECTION 11.06. (a) Effective September 1, 2006, Section 651.004, Government Code, is amended by adding Subsection (c) to read as follows:

(c) A state agency in the executive branch of state government that employs more than 100 full-time equivalent employees may not employ more than one full-time equivalent employee in a management position for every 11 full-time equivalent employees that the agency employs in nonmanagerial staff positions.

1 (b) A state agency in the executive branch of government
2 shall achieve the management-to-staff ratio required by Section
3 651.004(c), Government Code, as added by this section, not later
4 than August 31, 2007.

5 SECTION 11.07. Section 656.048(b), Government Code, is
6 repealed.

7 ARTICLE 12. ABANDONMENT OF
8 PROCEEDS ON DEMUTUALIZATION

9 SECTION 12.01. Section 72.101, Property Code, is amended by
10 adding Subsection (c) to read as follows:

11 (c) The three-year period leading to a presumption of
12 abandonment of proceeds from the demutualization of an insurance
13 company begins on the earlier of the date of the last contact with
14 the policyholder entitled to the proceeds or the date of the
15 demutualization.

16 SECTION 12.02. Section 74.301, Property Code, is amended by
17 amending Subsection (a) and adding Subsection (d) to read as
18 follows:

19 (a) Except as provided by Subsection (c) or (d), each holder
20 who on June 30 holds property that is presumed abandoned under
21 Chapter 72, 73, or 75 shall deliver the property to the comptroller
22 on or before the following November 1 accompanied by the report
23 required to be filed under Section 74.101.

24 (d) If the property subject to delivery under Subsection (a)
25 is proceeds from the demutualization of an insurance company, the
26 holder shall deliver the property and required report to the
27 comptroller on or before the following August 1.

1 ARTICLE 13. EFFECTIVE DATE

2 SECTION 13.01. Except as otherwise provided by this Act,
3 this Act takes effect September 1, 2003.