

By: Keffer

H.B. No. 2925

A BILL TO BE ENTITLED

AN ACT

1
2 relating to false claims against the state and actions by the state
3 and private persons to prosecute those claims; providing a civil
4 penalty.

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

6 SECTION 1. Subtitle C, Title 10, Government Code, is
7 amended by adding Chapter 2116 to read as follows:

8 CHAPTER 2116. FALSE CLAIMS

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 2116.001. SHORT TITLE. This chapter may be cited as
11 the Texas Fraud Against Taxpayers Act.

12 Sec. 2116.002. DEFINITIONS. In this chapter:

13 (1) "Claim" includes any request or demand, under a
14 contract or otherwise, for money or property that is made to a
15 contractor, grantee, or other recipient if this state:

16 (A) provides any portion of the money or property
17 that is requested or demanded; or

18 (B) will reimburse the contractor, grantee, or
19 other recipient for any portion of the money or property that is
20 requested or demanded.

21 (2) "Documentary material" means the original or any
22 copy of any book, record, report, memorandum, paper, communication,
23 tabulation, chart, or other document, or data compilations stored
24 in or accessible through computer or other information retrieval

1 systems, together with instructions and all other materials
2 necessary to use or interpret such data compilations, and any
3 product of discovery.

4 (3) "Product of discovery" means:

5 (A) the original or duplicate of any deposition,
6 interrogatory, document, thing, result of the inspection of land or
7 other property, examination, or admission, that is obtained by any
8 method of discovery in any judicial or administrative proceeding of
9 an adversarial nature;

10 (B) any digest, analysis, selection,
11 compilation, or derivation of any item listed in Paragraph (A); and

12 (C) any index or other manner of access to any
13 item listed in Paragraph (A).

14 (4) "Qui tam action" means an action brought by a
15 private person against a person for the commission of a false claim
16 under Section 2116.101.

17 (5) "Qui tam plaintiff" means the person bringing a
18 qui tam action.

19 (6) "State" means state government as defined by
20 Section 101.001, Civil Practice and Remedies Code.

21 Sec. 2116.003. WHEN A PERSON ACTS KNOWINGLY. In this
22 chapter, a person acts "knowingly" with respect to information if
23 the person:

24 (1) has knowledge of the information;

25 (2) acts with conscious indifference to the truth or
26 falsity of the information; or

27 (3) acts in reckless disregard of the truth or falsity

1 of the information.

2 Sec. 2116.004. CERTAIN ACTIONS BARRED. (a) A person may
3 not bring a qui tam action based on allegations or transactions that
4 are the subject of a civil suit or an administrative penalty
5 proceeding in which the state is already a party.

6 (b) A person may not bring an action under this chapter that
7 is based on the public disclosure of allegations or transactions in
8 a criminal or civil hearing, in a legislative or administrative
9 report, hearing, audit, or investigation, or from the news media,
10 unless the person bringing the action is an original source of the
11 information. In this subsection, "original source" means an
12 individual who has direct and independent knowledge of the
13 information on which the allegations are based and has voluntarily
14 provided the information to the state before filing an action under
15 this subchapter that is based on the information.

16 Sec. 2116.005. CHAPTER NOT APPLICABLE TO MEDICAID FRAUD.
17 This chapter does not apply to an unlawful act described by Section
18 36.002, Human Resources Code, relating to Medicaid fraud.

19 [Sections 2116.006-2116.050 reserved for expansion]

20 SUBCHAPTER B. INVESTIGATION BY THE ATTORNEY GENERAL

21 Sec. 2116.051. RESPONSIBILITY OF THE ATTORNEY GENERAL. The
22 attorney general shall diligently investigate the commission of a
23 false claim under Section 2116.101 and may bring a civil action
24 against the person committing the false claim.

25 Sec. 2116.052. INVESTIGATION. (a) The attorney general
26 may take action under Subsection (b) if the attorney general has
27 reason to believe that:

1 (1) a person has information or custody or control of
2 documentary material relevant to the subject matter of an
3 investigation of an alleged false claim;

4 (2) a person is committing, has committed, or is about
5 to commit a false claim; or

6 (3) it is in the public interest to conduct an
7 investigation to ascertain whether a person is committing, has
8 committed, or is about to commit a false claim.

9 (b) In investigating a false claim, the attorney general
10 may:

11 (1) require the person to file on a prescribed form a
12 statement in writing, under oath or affirmation, as to all the facts
13 and circumstances concerning the alleged false claim and other
14 information considered necessary by the attorney general;

15 (2) examine under oath a person in connection with the
16 alleged false claim; and

17 (3) execute in writing and serve on the person a civil
18 investigative demand requiring the person to produce the
19 documentary material and permit inspection and copying of the
20 material under Section 2116.053.

21 (c) The office of the attorney general may not release or
22 disclose information that is obtained under Subsection (b)(1) or
23 (2) or any documentary material or other record derived from the
24 information except:

25 (1) by court order for good cause shown;

26 (2) with the consent of the person who provided the
27 information;

1 (3) to an employee of the attorney general;

2 (4) to an agency of this state, the United States, or
3 another state;

4 (5) to any attorney representing the state under
5 Section 2116.055 or in a civil action brought under Subchapter D;

6 (6) to a political subdivision of this state; or

7 (7) to a person authorized by the attorney general to
8 receive the information.

9 (d) The attorney general may use documentary material
10 derived from information obtained under Subsection (b)(1) or (2),
11 or copies of that material, as the attorney general determines
12 necessary in the enforcement of this chapter, including
13 presentation before a court.

14 (e) If a person fails to file a statement as required by
15 Subsection (b)(1) or fails to submit to an examination as required
16 by Subsection (b)(2), the attorney general may file in a district
17 court of Travis County a petition for an order to compel the person
18 to file the statement or submit to the examination within a period
19 stated by court order. Failure to comply with an order entered
20 under this subsection is punishable as contempt.

21 (f) An order issued by a district court under this section
22 is subject to appeal to the supreme court.

23 Sec. 2116.053. CIVIL INVESTIGATIVE DEMAND. (a) An
24 investigative demand must:

25 (1) state the rule or statute under which the alleged
26 unlawful act is being investigated and the general subject matter
27 of the investigation;

1 (2) describe the class or classes of documentary
2 material to be produced with reasonable specificity to fairly
3 indicate the documentary material demanded;

4 (3) prescribe a return date within which the
5 documentary material is to be produced; and

6 (4) identify an authorized employee of the attorney
7 general to whom the documentary material is to be made available for
8 inspection and copying.

9 (b) A civil investigative demand may require disclosure of
10 any documentary material that is discoverable under the Texas Rules
11 of Civil Procedure.

12 (c) Service of an investigative demand may be made by:

13 (1) delivering an executed copy of the demand to the
14 person to be served or to a partner, an officer, or an agent
15 authorized by appointment or by law to receive service of process on
16 behalf of that person;

17 (2) delivering an executed copy of the demand to the
18 principal place of business in this state of the person to be
19 served; or

20 (3) mailing by registered or certified mail an
21 executed copy of the demand addressed to the person to be served at
22 the person's principal place of business in this state or, if the
23 person has no place of business in this state, to a person's
24 principal office or place of business.

25 (d) Documentary material demanded under this section shall
26 be produced for inspection and copying during normal business hours
27 at the office of the attorney general or as agreed by the person

1 served and the attorney general.

2 (e) The office of the attorney general may not produce for
3 inspection or copying or otherwise disclose the contents of
4 documentary material obtained under this section except:

5 (1) by court order for good cause shown;

6 (2) with the consent of the person who produced the
7 information;

8 (3) to an employee of the attorney general;

9 (4) to an agency of this state, the United States, or
10 another state;

11 (5) to any attorney representing the state under
12 Section 2116.055 or in a civil action brought under Subchapter D;

13 (6) to a political subdivision of this state; or

14 (7) to a person authorized by the attorney general to
15 receive the information.

16 (f) The attorney general shall prescribe reasonable terms
17 and conditions allowing the documentary material to be available
18 for inspection and copying by the person who produced the material
19 or by an authorized representative of that person. The attorney
20 general may use the documentary material or copies of it as the
21 attorney general determines necessary in the enforcement of this
22 chapter, including presentation before a court.

23 (g) A person may file a petition, stating good cause, to
24 extend the return date for the demand or to modify or set aside the
25 demand. A petition under this section shall be filed in a district
26 court of Travis County and must be filed before the earlier of:

27 (1) the return date specified in the demand; or

1 (2) the 20th day after the date the demand is served.

2 (h) Except as provided by court order, a person on whom a
3 demand has been served under this section shall comply with the
4 terms of an investigative demand.

5 (i) A person who has committed a false claim has submitted
6 to the jurisdiction of this state, and personal service of an
7 investigative demand under this section may be made on the person
8 outside of this state.

9 (j) This section does not limit the authority of the
10 attorney general to conduct investigations or to access a person's
11 documentary materials or other information under another state or
12 federal law, the Texas Rules of Civil Procedure, or the Federal
13 Rules of Civil Procedure.

14 (k) If a person fails to comply with an investigative
15 demand, or if copying and reproduction of the documentary material
16 demanded cannot be satisfactorily accomplished and the person
17 refuses to surrender the documentary material, the attorney general
18 may file in a district court of Travis County a petition for an
19 order to enforce the investigative demand.

20 (l) If a petition is filed under Subsection (k), the court
21 may determine the matter presented and may enter an order to
22 implement this section.

23 (m) Failure to comply with a final order entered under
24 Subsection (k) is punishable by contempt.

25 (n) A final order issued by a district court under
26 Subsection (k) is subject to appeal to the supreme court.

27 Sec. 2116.054. INJUNCTIVE RELIEF. (a) If the attorney

1 general has reason to believe that a person is committing, has
2 committed, or is about to commit a false claim, the attorney general
3 may institute an action for an appropriate order to restrain the
4 person from committing or continuing the false claim.

5 (b) An action under this section shall be brought in a
6 district court of Travis County, or in a county in which any part of
7 the false claim occurred, is occurring, or is about to occur.

8 Sec. 2116.055. APPLICATION OF OTHER LAW. The application
9 of a civil remedy under this chapter does not preclude the
10 application of another common law, statutory, or regulatory remedy,
11 except that a person may not be liable for a civil remedy under this
12 chapter and civil damages under Chapter 41, Civil Practice and
13 Remedies Code, if the civil remedy and civil damages are assessed
14 for the same act.

15 Sec. 2116.056. RECOVERY OF COSTS, FEES, AND EXPENSES. The
16 attorney general may recover fees, expenses, and costs reasonably
17 incurred in obtaining injunctive relief or civil remedies or in
18 conducting investigations under this chapter, including court
19 costs, reasonable attorney's fees, witness fees, and deposition
20 fees.

21 Sec. 2116.057. USE OF MONEY RECOVERED. The legislature, in
22 appropriating money recovered under this chapter, shall consider
23 the requirements of the attorney general and other affected state
24 agencies in investigating fraud and enforcing this chapter.

25 [Sections 2116.058-2116.100 reserved for expansion]

26 SUBCHAPTER C. FALSE CLAIMS

27 Sec. 2116.101. FALSE CLAIMS. (a) A person commits a false

1 claim if the person:

2 (1) knowingly presents, or causes to be presented, to
3 an officer, employee, or agent of this state, or to any contractor,
4 grantee, or other recipient of state funds, a false or fraudulent
5 claim for payment or approval;

6 (2) knowingly makes, uses, or causes to be made or used
7 a false record or statement to get a false or fraudulent claim paid
8 or approved;

9 (3) conspires to defraud this state by getting a false
10 or fraudulent claim allowed or paid, or conspires to defraud this
11 state by knowingly making, using, or causing to be made or used, a
12 false record or statement to conceal, avoid, or decrease an
13 obligation to pay or transmit money or property to this state;

14 (4) has possession, custody, or control of public
15 property or money used or to be used by this state and knowingly
16 delivers or causes to be delivered less property than the amount for
17 which the person receives a certificate or receipt;

18 (5) is authorized to make or deliver a document
19 certifying receipt of property used or to be used by this state and
20 knowingly makes or delivers a receipt that falsely represents the
21 property used or to be used;

22 (6) knowingly buys, or receives as a pledge of an
23 obligation or debt, public property from any person who lawfully
24 may not sell or pledge the property;

25 (7) knowingly makes, uses, or causes to be made or used
26 a false record or statement to conceal, avoid, or decrease an
27 obligation to pay or transmit money or property to this state; or

1 (8) is a beneficiary of an inadvertent submission of a
2 false claim to any employee, officer, or agent of this state, or to
3 any contractor, grantee, or other recipient of state funds,
4 subsequently discovers the falsity of the claim, and fails to
5 disclose the false claim to this state within a reasonable time
6 after discovery of the false claim.

7 (b) Proof of the person's specific intent to commit a false
8 claim under Subsection (a) is not required in a civil or
9 administrative proceeding to show that a person acted "knowingly"
10 with respect to information under this chapter.

11 Sec. 2116.102. CIVIL REMEDIES. (a) A person who commits a
12 false claim under Section 2116.101 is liable to this state for:

13 (1) the amount of any payment or the value of any
14 monetary or in-kind benefit realized, directly or indirectly, as a
15 result of the false claim, including any payment made to a third
16 party;

17 (2) interest on the amount of the payment or the value
18 of the benefit described by Subdivision (1) at the prejudgment
19 interest rate in effect on the day the payment or benefit was
20 received or paid, for the period from the date the benefit was
21 received or paid to the date that the state recovers the amount of
22 the payment or value of the benefit;

23 (3) a civil penalty of not less than \$5,000 or more
24 than \$20,000 for each false claim committed by the person; and

25 (4) two times the amount of the payment or the value of
26 the benefit described by Subdivision (1).

27 (b) In determining the amount of the civil penalty described

1 by Subsection (a)(3), the trier of fact shall consider:

2 (1) whether the person has previously violated the
3 provisions of this chapter;

4 (2) the seriousness of the false claim committed by
5 the person, including the nature, circumstances, extent, and
6 gravity of the false claim;

7 (3) whether the health and safety of the public or an
8 individual was threatened by the false claim;

9 (4) whether the person acted in bad faith when the
10 person engaged in the conduct that formed the basis of the false
11 claim; and

12 (5) the amount necessary to deter future false claims.

13 (c) The trier of fact may assess a total of not more than two
14 times the amount of a payment or the value of a benefit described by
15 Subsection (a)(1) if the trier of fact finds that:

16 (1) the person furnished the attorney general with all
17 information known to the person about the false claim not later than
18 the 30th day after the date on which the person first obtained the
19 information; and

20 (2) at the time the person furnished all the
21 information to the attorney general, the attorney general had not
22 yet begun an investigation under this chapter.

23 [Sections 2116.103-2116.150 reserved for expansion]

24 SUBCHAPTER D. ACTIONS BY PRIVATE PERSONS

25 Sec. 2116.151. ACTIONS BY PRIVATE PERSON AUTHORIZED;

26 ALTERNATIVE REMEDY SOUGHT BY STATE. (a) Subject to Section
27 2116.201, a private person may bring a civil action against a person

1 committing a false claim under Section 2116.101.

2 (b) The action is a qui tam action on behalf of both the
3 person and the state.

4 (c) The qui tam action must be brought in the name of this
5 state.

6 (d) No person other than the attorney general may intervene
7 or bring a related action based on the facts underlying a pending
8 action under this subchapter.

9 Sec. 2116.152. INITIATION OF ACTION. (a) A qui tam
10 plaintiff shall serve a copy of the petition and a written
11 disclosure of substantially all material evidence and information
12 the person possesses on the attorney general in compliance with the
13 Texas Rules of Civil Procedure.

14 (b) The petition shall be filed in camera and, except as
15 provided by Subsection (d) or (e), shall remain under seal until at
16 least the 180th day after the date the petition is filed or the date
17 on which the state elects to intervene, whichever is earlier. The
18 petition may not be served on the defendant until the court orders
19 service on the defendant.

20 (c) The state may elect to intervene and proceed with the
21 action not later than the 180th day after the date the attorney
22 general receives the petition and the material evidence and
23 information.

24 (d) At the time the state intervenes, the attorney general
25 may file a motion with the court requesting that the petition remain
26 under seal for an extended period.

27 (e) The state may, for good cause shown, move the court to

1 extend the 180-day deadline under Subsection (b) or (c). A motion
2 under this subsection may be supported by affidavits or other
3 submissions in camera.

4 (f) An action under this subchapter may be dismissed before
5 the end of the period during which the petition remains under seal
6 only if the court and the attorney general consent in writing to the
7 dismissal and state their reasons for consenting.

8 Sec. 2116.153. ANSWER BY DEFENDANT. A defendant is not
9 required to file in accordance with the Texas Rules of Civil
10 Procedure an answer to a petition filed under this subchapter until
11 the petition is unsealed and served on the defendant.

12 Sec. 2116.154. CHOICE OF STATE. (a) Not later than the
13 last day of the period described by Section 2116.152(c) or an
14 extension of that period as provided by Section 2116.152(e), the
15 state shall:

16 (1) proceed with the action; or

17 (2) notify the court that the state declines to take
18 over the action.

19 (b) If the state declines to take over the action, the court
20 shall dismiss the action.

21 (c) The attorney general may contract with a private
22 attorney to represent the state in an action in which the state
23 elects to proceed.

24 Sec. 2116.155. ACTION CONDUCTED BY STATE. (a) This section
25 applies to a qui tam action the state takes over under Section
26 2116.154(a)(1).

27 (b) The state has the primary responsibility for

1 prosecuting the action and is not bound by an act of the qui tam
2 plaintiff.

3 (c) Subject to this section, the qui tam plaintiff is
4 entitled to continue as a party to the action.

5 (d) Notwithstanding the objection of the qui tam plaintiff,
6 the state may dismiss the action for good cause if:

7 (1) the state notifies the qui tam plaintiff that a
8 motion to dismiss has been filed; and

9 (2) the court provides the qui tam plaintiff with an
10 opportunity for a hearing on the motion.

11 (e) Notwithstanding the objection of the qui tam plaintiff,
12 the state may settle the action if the court determines, after a
13 hearing, that the proposed settlement is fair, adequate, and
14 reasonable under all the circumstances. On a showing of good cause,
15 the hearing may be held in camera.

16 (f) On a showing by the state that unrestricted
17 participation in the litigation of the action by the qui tam
18 plaintiff would interfere with or unduly delay the state's
19 prosecution of the case or would be repetitious, irrelevant, or for
20 purposes of harassment, the court may impose limitations on the
21 person's participation, including:

22 (1) limiting the number of witnesses the qui tam
23 plaintiff may call;

24 (2) limiting the length of the testimony of witnesses
25 called by the qui tam plaintiff;

26 (3) limiting the qui tam plaintiff's cross-examination
27 of witnesses; or

1 (4) otherwise limiting the participation by the qui
2 tam plaintiff in the litigation.

3 (g) On a showing by the defendant that unrestricted
4 participation in the litigation of the action by the qui tam
5 plaintiff would be for purposes of harassment or would cause the
6 defendant undue burden or unnecessary expense, the court may limit
7 the participation by the qui tam plaintiff in the litigation.

8 Sec. 2116.156. STAY OF CERTAIN DISCOVERY. (a) On a
9 showing by the state that certain actions of discovery by the qui
10 tam plaintiff would interfere with the state's investigation or
11 prosecution of a criminal or civil matter arising out of the same
12 facts, the court may stay the discovery for a period not to exceed
13 60 days.

14 (b) The court shall hear a motion to stay discovery under
15 this section in camera.

16 (c) The court may extend the period prescribed by Subsection
17 (a) on a further showing in camera that the state has pursued the
18 criminal or civil investigation or proceedings with reasonable
19 diligence and that any proposed discovery in the civil action will
20 interfere with the ongoing criminal or civil investigation or
21 proceedings.

22 Sec. 2116.157. AWARD TO QUI TAM PLAINTIFF WHEN STATE
23 PROCEEDS WITH ACTION. (a) If the state proceeds with an action
24 under this subchapter, the person bringing the action is entitled,
25 except as provided by Subsection (b), to receive at least 10
26 percent, but not more than 25 percent, of the proceeds of the
27 action, depending on the extent to which the person substantially

1 contributed to the prosecution of the action.

2 (b) If the court finds that the action is based primarily on
3 disclosures of specific information, other than information
4 provided by the person bringing the action, relating to allegations
5 or transactions in a civil or criminal hearing, in a legislative or
6 administrative report, hearing, audit, or investigation, or from
7 the news media, the court may award the amount the court considers
8 appropriate but not more than 10 percent of the proceeds of the
9 action. The court shall consider the significance of the
10 information and the role of the person bringing the action in
11 advancing the case to litigation.

12 (c) A payment to a person under this section shall be made
13 from the proceeds of the action. A person receiving a payment under
14 this section is also entitled to receive from the defendant an
15 amount for reasonable expenses, reasonable attorney's fees, and
16 costs that the court finds to have been necessarily incurred. The
17 court's determination of expenses, fees, and costs to be awarded
18 under this subsection shall be made only after the defendant has
19 been found liable in the action.

20 (d) In this section, "proceeds of the action" includes
21 proceeds of a settlement of the action.

22 Sec. 2116.158. REDUCTION OF AWARD. (a) If the court finds
23 that the qui tam plaintiff planned and initiated the false claim
24 that is the basis of the qui tam action, the court may, to the extent
25 the court considers appropriate, reduce the share of the proceeds
26 of the action the person would otherwise receive under Section
27 2116.157, taking into account the qui tam plaintiff's role in

1 advancing the case to litigation and any relevant circumstances
2 pertaining to the violation.

3 (b) If the qui tam plaintiff is convicted of criminal
4 conduct arising from the person's role in the false claim, the court
5 shall dismiss the plaintiff from the civil action and the plaintiff
6 may not receive any share of the proceeds of the action. A
7 dismissal under this subsection does not prejudice the right of the
8 state to continue the qui tam action.

9 Sec. 2116.159. STATE NOT LIABLE FOR CERTAIN EXPENSES. The
10 state is not liable for expenses that a qui tam plaintiff incurs in
11 bringing an action under this subchapter.

12 Sec. 2116.160. RETALIATION BY EMPLOYER AGAINST PERSON
13 BRINGING SUIT PROHIBITED. (a) A person who is discharged, demoted,
14 suspended, threatened, harassed, or in any other manner
15 discriminated against in the terms of employment by the person's
16 employer because of a lawful act taken by the person in furtherance
17 of a qui tam action, including investigation for, initiation of,
18 testimony for, or assistance in a qui tam action filed or to be
19 filed, is entitled to all relief necessary to make the person whole,
20 including:

21 (1) reinstatement with the same seniority status the
22 person would have had but for the discrimination; and

23 (2) not less than two times the amount of back pay,
24 interest on the back pay, and compensation for any special damages
25 sustained as a result of the discrimination, including litigation
26 costs and reasonable attorney's fees.

27 (b) A person may bring an action in the appropriate district

1 court for the relief provided in this section.

2 Sec. 2116.161. AWARD TO DEFENDANT FOR FRIVOLOUS ACTION;
3 SOVEREIGN IMMUNITY. (a) Chapter 105, Civil Practice and Remedies
4 Code, applies in an action under this subchapter with which the
5 state proceeds.

6 (b) Except as provided by Subsection (a), this chapter does
7 not waive sovereign immunity.

8 [Sections 2116.162-2116.200 reserved for expansion]

9 SUBCHAPTER E. ACTION BY STATE

10 Sec. 2116.201. STATE MAY PURSUE ALTERNATE REMEDY. (a)
11 After a qui tam action is filed, the state may elect to prosecute
12 the false claim that is the subject of the action through any
13 alternate remedy available to the state, including any
14 administrative proceeding to determine an administrative penalty.

15 (b) The qui tam plaintiff has the same rights in the other
16 proceeding as the person would have had if the action had continued
17 in the original forum, including a monetary award as provided by
18 Subchapter D.

19 (c) A finding of fact or conclusion of law made in the other
20 proceeding that has become final is conclusive on all parties to the
21 qui tam action. For purposes of this subsection, a finding or
22 conclusion is final if:

23 (1) the finding or conclusion has been finally
24 determined on appeal to the appropriate court;

25 (2) no appeal has been filed with respect to the
26 finding or conclusion and all time for filing an appeal has expired;

27 or

1 (3) the finding or conclusion is not subject to
2 judicial review.

3 SECTION 2. This Act applies only to a false claim as
4 described by Section 2116.101, Government Code, as added by this
5 Act, that takes place on or after the effective date of this Act. A
6 false claim takes place on or after the effective date of this Act
7 only if all elements of the false claim take place on or after the
8 effective date of this Act.

9 SECTION 3. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2007.