

1-1 By: Wentworth S.B. No. 822
1-2 (In the Senate - Filed February 22, 2007; March 7, 2007,
1-3 read first time and referred to Subcommittee on Flooding and
1-4 Evacuations; April 27, 2007, reported adversely, with favorable
1-5 Committee Substitute from Committee on Intergovernmental Relations
1-6 by the following vote: Yeas 3, Nays 0; April 27, 2007, sent to
1-7 printer.)

1-8 COMMITTEE SUBSTITUTE FOR S.B. No. 822 By: Patrick

1-9 A BILL TO BE ENTITLED
1-10 AN ACT

1-11 relating to the creation of the atmosphere modification research
1-12 program and center and the administration of the weather
1-13 modification and control program.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Title 3, Agriculture Code, is amended by adding
1-16 Chapter 50C to read as follows:

1-17 CHAPTER 50C. ATMOSPHERE MODIFICATION RESEARCH

1-18 SUBCHAPTER A. ATMOSPHERE MODIFICATION RESEARCH PROGRAM

1-19 Sec. 50C.001. PURPOSE. The atmosphere modification
1-20 research program is established to increase understanding of
1-21 precipitation and the ability to control precipitation to decrease
1-22 the damaging effects of drought, hail, and flooding on the
1-23 environment and man-made structures.

1-24 Sec. 50C.002. PARTICIPATION. The atmosphere modification
1-25 research program is a competitive research grant program for
1-26 faculty researchers at Texas public and private institutions of
1-27 higher education with expertise in weather modification or an
1-28 atmospheric science.

1-29 Sec. 50C.003. ADMINISTRATION OF PROGRAM. The department
1-30 shall:

1-31 (1) administer the atmosphere modification research
1-32 program;

1-33 (2) administer grants for research under the program;

1-34 (3) select research proposals submitted for
1-35 participation in the program by a peer review process;

1-36 (4) give preference to multi-institutional and
1-37 multidisciplinary proposals and proposals with federal or private
1-38 matching funds; and

1-39 (5) adopt rules for the implementation and
1-40 administration of the program.

1-41 Sec. 50C.004. DURATION OF GRANT. A grant made by the
1-42 department under this chapter shall be for a period of two years
1-43 and, subject to department review, may be extended for a period of
1-44 not more than two years.

1-45 Sec. 50C.005. REPORT. Not later than October 31 of each
1-46 year, a participant in the atmosphere modification research program
1-47 must file with the department an annual report detailing the
1-48 progress of the participant's project.

1-49 Sec. 50C.006. EVALUATION OF PROGRAM. The department shall
1-50 cause an independent evaluation of the atmosphere modification
1-51 research program to be conducted by a team of experts not associated
1-52 with the program or the department during the second year after the
1-53 program is created and every two years thereafter.

1-54 [Sections 50C.007-50C.050 reserved for expansion]

1-55 SUBCHAPTER B. ATMOSPHERE MODIFICATION RESEARCH CENTER

1-56 Sec. 50C.051. PURPOSE. The department shall establish an
1-57 atmosphere modification research center at Texas Tech University to
1-58 conduct basic and applied research designed to increase
1-59 understanding of precipitation and the ability to control
1-60 precipitation to decrease the damaging effects of drought, hail,
1-61 and flooding on the environment and man-made structures.

1-62 Sec. 50C.052. PUBLIC FORUM. The atmosphere modification
1-63 research center must provide a public forum to disseminate research

2-1 findings and recommendations and to obtain comments from state and
2-2 local government agencies, business entities, and citizens.

2-3 Sec. 50C.053. ATMOSPHERE MODIFICATION RESEARCH CENTER
2-4 FUND. (a) The atmosphere modification research center fund is
2-5 created as a trust fund with the comptroller and shall be
2-6 administered by the department as a trustee on behalf of the center.
2-7 The fund is composed of:

2-8 (1) gifts, grants, and other donations received by the
2-9 department for the fund;

2-10 (2) revenue from operation of the center; and

2-11 (3) until September 1, 2013, any amounts appropriated
2-12 by the legislature for deposit to the credit of the fund from the
2-13 general revenue fund, and after that date, an amount appropriated
2-14 by the legislature for deposit to the credit of the fund from the
2-15 general revenue fund that does not exceed nonstate funding.

2-16 (b) Money in the atmosphere modification research center
2-17 fund may be used only to finance the atmosphere modification
2-18 research of the center.

2-19 Sec. 50C.054. DIRECTOR; STAFF. (a) The board of regents
2-20 of Texas Tech University shall select a director for the atmosphere
2-21 modification research center from among the faculty at the
2-22 university.

2-23 (b) The center shall be staffed by Texas Tech University
2-24 faculty members, research professionals, students, and other
2-25 personnel as determined by the board of regents of the university.

2-26 Sec. 50C.055. SCIENTIFIC ADVISORY BOARD. (a) The
2-27 department shall establish a scientific advisory board to advise
2-28 the atmosphere modification research center on research
2-29 priorities, guidelines, and procedures.

2-30 (b) The board shall establish and review metrics to assess
2-31 the effectiveness of the center's research projects.

2-32 Sec. 50C.056. REPORT. The atmosphere modification research
2-33 center shall file annually with the department and the legislature
2-34 a report detailing the center's activities, findings, and
2-35 recommendations.

2-36 SECTION 2. Subdivision (5), Section 301.001, Agriculture
2-37 Code, is amended to read as follows:

2-38 (5) "Weather modification and control program" means
2-39 the research, development, licensing, and permitting and other
2-40 associated activities to be administered by the department [~~Texas~~
2-41 ~~Department of Licensing and Regulation~~].

2-42 SECTION 3. The heading to Subchapter B, Chapter 301,
2-43 Agriculture Code, is amended to read as follows:

2-44 SUBCHAPTER B. POWERS AND DUTIES OF [~~TEXAS~~] DEPARTMENT OF
2-45 AGRICULTURE [~~LICENSING AND REGULATION~~]

2-46 SECTION 4. Section 301.051, Agriculture Code, is amended to
2-47 read as follows:

2-48 Sec. 301.051. RULES. The department [~~Texas Department of~~
2-49 ~~Licensing and Regulation~~] may adopt rules necessary to:

2-50 (1) exercise the powers and perform the duties under
2-51 this chapter;

2-52 (2) establish procedures and conditions for the
2-53 issuance of licenses and permits under this chapter; and

2-54 (3) establish standards and instructions to govern the
2-55 carrying out of research or projects in weather modification and
2-56 control that the department [~~Texas Department of Licensing and~~
2-57 ~~Regulation~~] considers necessary or desirable to minimize danger to
2-58 health or property.

2-59 SECTION 5. Section 301.052, Agriculture Code, is amended to
2-60 read as follows:

2-61 Sec. 301.052. STUDIES; INVESTIGATIONS; HEARINGS. The
2-62 department [~~Texas Department of Licensing and Regulation~~] may make
2-63 any studies or investigations, obtain any information, and hold any
2-64 hearings necessary or proper to administer or enforce this chapter
2-65 or any rules or orders issued under this chapter.

2-66 SECTION 6. Section 301.053, Agriculture Code, is amended to
2-67 read as follows:

2-68 Sec. 301.053. ADVISORY COMMITTEES. The department [~~Texas~~
2-69 ~~Department of Licensing and Regulation~~] may establish advisory

3-1 committees to advise the department [~~Texas Department of Licensing~~
3-2 ~~and Regulation~~] and to make recommendations to the department
3-3 [~~Texas Department of Licensing and Regulation~~] concerning
3-4 legislation, policies, administration, research, and other matters
3-5 related to the duties, powers, or functions of the department
3-6 [~~Texas Department of Licensing and Regulation~~] under this chapter.

3-7 SECTION 7. Section 301.054, Agriculture Code, is amended to
3-8 read as follows:

3-9 Sec. 301.054. PERSONNEL. The department [~~executive~~
3-10 ~~director~~] may, as provided by the General Appropriations Act,
3-11 appoint and fix the compensation of any personnel, including
3-12 specialists and consultants, necessary to perform duties and
3-13 functions under this chapter.

3-14 SECTION 8. Section 301.055, Agriculture Code, is amended to
3-15 read as follows:

3-16 Sec. 301.055. MATERIALS AND EQUIPMENT. The department
3-17 [~~Texas Department of Licensing and Regulation~~] may acquire in the
3-18 manner provided by law any materials, equipment, and facilities
3-19 necessary to the performance of its duties and functions under this
3-20 chapter.

3-21 SECTION 9. Section 301.056, Agriculture Code, is amended to
3-22 read as follows:

3-23 Sec. 301.056. INTERSTATE COMPACTS. The department
3-24 [~~executive director~~] may represent the state in matters pertaining
3-25 to plans, procedures, or negotiations for interstate compacts
3-26 relating to weather modification and control.

3-27 SECTION 10. Section 301.057, Agriculture Code, is amended
3-28 to read as follows:

3-29 Sec. 301.057. CONTRACTS AND COOPERATIVE AGREEMENTS.
3-30 (a) The department [~~Texas Department of Licensing and Regulation~~]
3-31 may cooperate with public or private agencies to promote the
3-32 purposes of this chapter.

3-33 (b) The department [~~Texas Department of Licensing and~~
3-34 ~~Regulation~~] may enter into cooperative agreements with the United
3-35 States or any of its agencies, with counties and municipalities of
3-36 this state, or with any private or public agencies for conducting
3-37 weather modification or cloud-seeding operations.

3-38 (c) The department [~~Texas Department of Licensing and~~
3-39 ~~Regulation~~] may represent the state, counties, municipalities, and
3-40 public and private agencies in contracting with private concerns
3-41 for the performance of weather modification or cloud-seeding
3-42 operations.

3-43 SECTION 11. Section 301.058, Agriculture Code, is amended
3-44 to read as follows:

3-45 Sec. 301.058. PROMOTION OF RESEARCH AND DEVELOPMENT.
3-46 (a) In order to assist in expanding the theoretical and practical
3-47 knowledge of weather modification and control, the department
3-48 [~~Texas Department of Licensing and Regulation~~] shall promote
3-49 continuous research and development in:

3-50 (1) the theory and development of methods of weather
3-51 modification and control, including processes, materials, and
3-52 devices related to these methods;

3-53 (2) the use of weather modification and control for
3-54 agricultural, industrial, commercial, and other purposes; and

3-55 (3) the protection of life and property during
3-56 research and operational activities.

3-57 (b) The department [~~Texas Department of Licensing and~~
3-58 ~~Regulation with approval of the executive director~~] may conduct and
3-59 may contract for research and development activities relating to
3-60 the purposes of this section.

3-61 SECTION 12. Section 301.059, Agriculture Code, is amended
3-62 to read as follows:

3-63 Sec. 301.059. GRANTS AND GIFTS. Subject to any limitations
3-64 imposed by law, the department [~~Texas Department of Licensing and~~
3-65 ~~Regulation~~] may accept federal grants, private gifts, and donations
3-66 from any other source. Unless the use of the money is restricted or
3-67 subject to any limitations provided by law, the department [~~Texas~~
3-68 ~~Department of Licensing and Regulation~~] may spend the money for the
3-69 administration of this chapter.

4-1 SECTION 13. Section 301.060, Agriculture Code, is amended
4-2 to read as follows:

4-3 Sec. 301.060. DISPOSITION OF LICENSE AND PERMIT FEES. The
4-4 department [~~Texas Department of Licensing and Regulation~~] shall
4-5 deposit all license and permit fees in the state treasury.

4-6 SECTION 14. Section 301.101, Agriculture Code, is amended
4-7 to read as follows:

4-8 Sec. 301.101. LICENSE AND PERMIT REQUIRED. Except as
4-9 provided by rule of the department [~~Texas Department of Licensing
4-10 and Regulation~~] under Section 301.102, a person may not engage in
4-11 activities for weather modification and control:

4-12 (1) without a weather modification license and weather
4-13 modification permit issued by the department; or

4-14 (2) in violation of any term or condition of the
4-15 license or permit.

4-16 SECTION 15. Section 301.102, Agriculture Code, is amended
4-17 to read as follows:

4-18 Sec. 301.102. EXEMPTIONS. (a) The department [~~Texas
4-19 Department of Licensing and Regulation~~] by rule, to the extent it
4-20 considers exemptions practical, shall provide for exempting the
4-21 following activities from the license and permit requirements of
4-22 this chapter:

4-23 (1) research, development, and experiments conducted
4-24 by state and federal agencies, institutions of higher learning, and
4-25 bona fide nonprofit research organizations;

4-26 (2) laboratory research and experiments;

4-27 (3) activities of an emergent nature for protection
4-28 against fire, frost, sleet, or fog; and

4-29 (4) activities normally conducted for purposes other
4-30 than inducing, increasing, decreasing, or preventing precipitation
4-31 or hail.

4-32 (b) The department [~~Texas Department of Licensing and
4-33 Regulation~~] by rule may modify or revoke an exemption.

4-34 SECTION 16. Subsection (a), Section 301.103, Agriculture
4-35 Code, is amended to read as follows:

4-36 (a) The department [~~Texas Department of Licensing and
4-37 Regulation~~], in accordance with the rules adopted under this
4-38 chapter, shall issue a weather modification license to each
4-39 applicant who:

4-40 (1) pays the license fee; and

4-41 (2) demonstrates, to the satisfaction of the
4-42 department [~~Texas Department of Licensing and Regulation~~],
4-43 competence in the field of meteorology that is reasonably necessary
4-44 to engage in weather modification and control activities.

4-45 SECTION 17. Section 301.106, Agriculture Code, is amended
4-46 to read as follows:

4-47 Sec. 301.106. RENEWAL LICENSE. At the expiration of the
4-48 license period, the department [~~Texas Department of Licensing and
4-49 Regulation~~] shall issue a renewal license to each applicant who
4-50 pays the license fee and who has the qualifications necessary for
4-51 issuance of an original license.

4-52 SECTION 18. Section 301.107, Agriculture Code, is amended
4-53 to read as follows:

4-54 Sec. 301.107. ISSUANCE OF PERMIT. (a) The department
4-55 [~~Texas Department of Licensing and Regulation~~], in accordance with
4-56 the rules adopted under this chapter and on a finding that the
4-57 weather modification and control operation as proposed in the
4-58 permit application will not significantly dissipate the clouds and
4-59 prevent their natural course of developing rain in the area in which
4-60 the operation is to be conducted to the material detriment of
4-61 persons or property in that area, and after approval at an election
4-62 if governed by Subchapter D, may issue a weather modification
4-63 permit to each applicant who:

4-64 (1) holds a valid weather modification license;

4-65 (2) pays the permit fee;

4-66 (3) publishes a notice of intention and submits proof
4-67 of publication as required by this chapter; and

4-68 (4) furnishes proof of financial responsibility.

4-69 (b) The department [~~Texas Department of Licensing and~~

5-1 ~~Regulation~~] shall, if requested by at least 25 persons, hold at
 5-2 least one public hearing in the area where the operation is to be
 5-3 conducted prior to the issuance of a permit.

5-4 SECTION 19. Section 301.109, Agriculture Code, is amended
 5-5 to read as follows:

5-6 Sec. 301.109. SCOPE OF PERMIT. A separate permit is
 5-7 required for each operation. If an operation is to be conducted
 5-8 under contract, a permit is required for each separate contract.
 5-9 The department [~~Texas Department of Licensing and Regulation~~] may
 5-10 not issue a permit for a contracted operation unless it covers a
 5-11 continuous period not to exceed four years.

5-12 SECTION 20. Section 301.113, Agriculture Code, is amended
 5-13 to read as follows:

5-14 Sec. 301.113. PROOF OF PUBLICATION; AFFIDAVIT. The
 5-15 applicant shall file proof of the publication, together with the
 5-16 publishers' affidavits, with the department [~~Texas Department of
 5-17 Licensing and Regulation~~] during the 15-day period immediately
 5-18 after the date of the last publication.

5-19 SECTION 21. Section 301.114, Agriculture Code, is amended
 5-20 to read as follows:

5-21 Sec. 301.114. PROOF OF FINANCIAL RESPONSIBILITY. Proof of
 5-22 financial responsibility is made by showing to the satisfaction of
 5-23 the department [~~Texas Department of Licensing and Regulation~~] that
 5-24 the license holder has the ability to respond in damages for
 5-25 liability that might reasonably result from the operation for which
 5-26 the permit is sought.

5-27 SECTION 22. Section 301.115, Agriculture Code, is amended
 5-28 to read as follows:

5-29 Sec. 301.115. MODIFICATION OF PERMIT. The department
 5-30 [~~Texas Department of Licensing and Regulation~~] may modify the terms
 5-31 and conditions of a permit if:

5-32 (1) the license holder is first given notice and a
 5-33 reasonable opportunity for a hearing on the need for a
 5-34 modification; and

5-35 (2) it appears to the department [~~Texas Department of
 5-36 Licensing and Regulation~~] that a modification is necessary to
 5-37 protect the health or property of any person.

5-38 SECTION 23. Section 301.116, Agriculture Code, is amended
 5-39 to read as follows:

5-40 Sec. 301.116. SCOPE OF ACTIVITY. Once a permit is issued,
 5-41 the license holder shall confine the license holder's activities
 5-42 substantially within the limits of time and area specified in the
 5-43 notice of intention, except to the extent that the limits are
 5-44 modified by the department [~~Texas Department of Licensing and
 5-45 Regulation~~]. The license holder shall comply with any terms and
 5-46 conditions of the permit as originally issued or as subsequently
 5-47 modified by the department [~~Texas Department of Licensing and
 5-48 Regulation~~].

5-49 SECTION 24. Section 301.117, Agriculture Code, is amended
 5-50 to read as follows:

5-51 Sec. 301.117. RECORDS AND REPORTS. (a) A license holder
 5-52 shall keep a record of each operation conducted under a permit,
 5-53 showing:

5-54 (1) the method employed;
 5-55 (2) the type of equipment used;
 5-56 (3) the kind and amount of each material used;
 5-57 (4) the times and places the equipment is operated;
 5-58 (5) the name and mailing address of each individual,
 5-59 other than the license holder, who participates or assists in the
 5-60 operation; and

5-61 (6) other information required by the department
 5-62 [~~Texas Department of Licensing and Regulation~~].

5-63 (b) The department [~~Texas Department of Licensing and
 5-64 Regulation~~] shall require written reports for each operation,
 5-65 whether the operation is exempt or conducted under a permit. A
 5-66 license holder shall submit a written report at the time and in the
 5-67 manner required by the department [~~Texas Department of Licensing
 5-68 and Regulation~~].

5-69 (c) All information on an operation shall be submitted to

6-1 the department [~~Texas Department of Licensing and Regulation~~]
6-2 before it is released to the public.

6-3 (d) The reports and records in the custody of the department
6-4 [~~Texas Department of Licensing and Regulation~~] shall be kept open
6-5 for public inspection.

6-6 SECTION 25. Subsection (b), Section 301.151, Agriculture
6-7 Code, is amended to read as follows:

6-8 (b) The department [~~Texas Department of Licensing and~~
6-9 ~~Regulation~~] by rule shall define hail suppression as used in this
6-10 subchapter, using the most current scientifically accepted
6-11 technological concepts.

6-12 SECTION 26. Subsection (c), Section 301.152, Agriculture
6-13 Code, is amended to read as follows:

6-14 (c) If the application for a permit does not describe the
6-15 operational area, the department [~~Texas Department of Licensing and~~
6-16 ~~Regulation~~] may designate an area located inside and up to eight
6-17 miles from the limits of the target area described in the
6-18 application as the operational area of the permit for the purposes
6-19 of this chapter.

6-20 SECTION 27. Section 301.153, Agriculture Code, is amended
6-21 to read as follows:

6-22 Sec. 301.153. DATE OF PERMIT ISSUANCE; PERMIT AREA. A
6-23 permit may not be issued by the department [~~Texas Department of~~
6-24 ~~Licensing and Regulation~~] before the end of the 30-day period
6-25 immediately following the first publication of notice and then only
6-26 in:

6-27 (1) those counties or parts of counties in the target
6-28 area or operational area in which the majority of the qualified
6-29 voters voting have approved or have not disapproved the issuance of
6-30 a permit if an election has been held; or

6-31 (2) any county or part of a county in the target area
6-32 or operational area if no petition for an election has been filed.

6-33 SECTION 28. Subsection (d), Section 301.156, Agriculture
6-34 Code, is amended to read as follows:

6-35 (d) Immediately on calling the election, the clerk of each
6-36 county within the target area or operational area shall notify the
6-37 department [~~executive director~~] of the date of the election.

6-38 SECTION 29. Subsection (d), Section 301.162, Agriculture
6-39 Code, is amended to read as follows:

6-40 (d) The commissioners court of each county holding an
6-41 election shall send certified copies of the results of the election
6-42 to the department [~~executive director~~] not later than 24 hours
6-43 after the results are declared under Subsection (a).

6-44 SECTION 30. Subsections (b), (c), and (d), Section 301.163,
6-45 Agriculture Code, are amended to read as follows:

6-46 (b) If a majority of the qualified voters voting in the
6-47 election precincts any part of which are located within the target
6-48 area vote in favor of issuance of the permit, the department [~~Texas~~
6-49 ~~Department of Licensing and Regulation~~] may issue the permit as
6-50 provided in this subchapter, except that if a majority of the
6-51 qualified voters voting in any of the following areas vote against
6-52 issuance of the permit, that area is excluded from the coverage of
6-53 the permit:

6-54 (1) an election precinct any part of which is located
6-55 in the operational area; or

6-56 (2) an election precinct located wholly within the
6-57 target area and contiguous with its outer boundary.

6-58 (c) If the department [~~Texas Department of Licensing and~~
6-59 ~~Regulation~~] finds that a weather modification and control operation
6-60 is still feasible, a permit may be issued covering areas in which no
6-61 election is requested or areas in which the voters give their
6-62 approval as provided by this subchapter.

6-63 (d) If a permit is denied under Subsection (a), an
6-64 application for a permit covering all or part of the same target
6-65 area or operational area that was denied may not be considered, and
6-66 for a period of two years following the date of the election, a
6-67 permit under that application may not be issued by the department
6-68 [~~Texas Department of Licensing and Regulation~~] and an election may
6-69 not be held under this chapter.

7-1 SECTION 31. Section 301.165, Agriculture Code, is amended
7-2 to read as follows:

7-3 Sec. 301.165. MONITOR OF PROGRAM. The department [~~Texas~~
7-4 ~~Department of Licensing and Regulation~~] may monitor any program
7-5 under conditions the department [~~Texas Department of Licensing and~~
7-6 ~~Regulation~~] determines advisable.

7-7 SECTION 32. Subsection (b), Section 301.166, Agriculture
7-8 Code, is amended to read as follows:

7-9 (b) If the county voters voting in the election disapprove
7-10 the issuance of permits authorizing hail suppression, the
7-11 department [~~Texas Department of Licensing and Regulation~~] may not
7-12 issue a permit covering the county until the proposition has been
7-13 approved at a subsequent election.

7-14 SECTION 33. Subsection (a), Section 301.167, Agriculture
7-15 Code, is amended to read as follows:

7-16 (a) If any county or part of a county has disapproved the
7-17 issuance of a permit at a previous election held under this
7-18 subchapter, that county or part of a county may not be included in
7-19 any permit issued by the department [~~Texas Department of Licensing~~
7-20 ~~and Regulation~~] until the voters of that county or part of a county
7-21 have participated in a subsequent election at which a permit is
7-22 approved.

7-23 SECTION 34. Section 301.201, Agriculture Code, is amended
7-24 to read as follows:

7-25 Sec. 301.201. PENALTIES. A person who violates this
7-26 chapter is subject to Section 12.020 [~~Subchapters F and G, Chapter~~
7-27 ~~51, Occupations Code,~~] in the same manner as a person regulated by
7-28 the department [~~Texas Department of Licensing and Regulation~~] under
7-29 other law is subject to that section [~~those subchapters~~].

7-30 SECTION 35. Section 301.203, Agriculture Code, is amended
7-31 to read as follows:

7-32 Sec. 301.203. DEFENSE EXCLUDED. Unless otherwise provided
7-33 by this chapter, the fact that a person holds a permit issued under
7-34 this chapter [~~by the Texas Department of Licensing and Regulation~~]
7-35 does not relieve that person from liability for the violation of
7-36 this chapter or a rule adopted or order or permit issued under this
7-37 chapter.

7-38 SECTION 36. Section 301.252, Agriculture Code, is amended
7-39 to read as follows:

7-40 Sec. 301.252. GROUNDS FOR REVOCATION OR SUSPENSION OF
7-41 PERMIT. After notice and hearing, the department [~~Texas~~
7-42 ~~Department of Licensing and Regulation~~] may revoke or suspend a
7-43 permit issued under this chapter on any of the following grounds:

7-44 (1) violating any term or condition of the permit, and
7-45 revocation or suspension is necessary to maintain the quality of
7-46 water or the quality of air in the state, or to otherwise protect
7-47 human health and the environment consistent with the objectives of
7-48 the law within the jurisdiction of the department or another agency
7-49 of this state [~~Texas Department of Licensing and Regulation~~];

7-50 (2) having a record of environmental violations in the
7-51 preceding five years at the permitted site;

7-52 (3) causing a discharge, release, or emission
7-53 contravening a pollution control standard [~~set by the Texas~~
7-54 ~~Department of Licensing and Regulation~~] or contravening the intent
7-55 of a law within the jurisdiction of the department or another agency
7-56 of this state [~~Texas Department of Licensing and Regulation~~];

7-57 (4) misrepresenting or failing to disclose fully all
7-58 relevant facts in obtaining the permit or misrepresenting to the
7-59 department [~~Texas Department of Licensing and Regulation~~] any
7-60 relevant fact at any time;

7-61 (5) being indebted to the state for fees, payment of
7-62 penalties, or taxes imposed by [~~the~~] law [~~within the department's~~
7-63 ~~jurisdiction~~];

7-64 (6) failing to ensure that the management of the
7-65 permitted facility conforms or will conform to the law within the
7-66 jurisdiction of the department or another agency of this state
7-67 [~~Texas Department of Licensing and Regulation~~];

7-68 (7) abandoning the permit or operations under the
7-69 permit;

8-1 (8) the finding by the department [~~Texas Department of~~
8-2 ~~Licensing and Regulation~~] that a change in conditions requires
8-3 elimination of the discharge authorized by the permit; or

8-4 (9) failing to continue to possess qualifications
8-5 necessary for the issuance of the permit.

8-6 SECTION 37. Subsection (b), Section 301.253, Agriculture
8-7 Code, is amended to read as follows:

8-8 (b) After notice and hearing, the department [~~Texas~~
8-9 ~~Department of Licensing and Regulation~~] may suspend or revoke a
8-10 license, place on probation a person whose license has been
8-11 suspended, reprimand a license holder, or refuse to renew or
8-12 reissue a license on any of the following grounds:

8-13 (1) having a record of environmental violations in the
8-14 preceding five years at a permit site;

8-15 (2) committing fraud or deceit in obtaining the
8-16 license;

8-17 (3) demonstrating gross negligence, incompetency, or
8-18 misconduct while acting as license holder;

8-19 (4) making an intentional misstatement or
8-20 misrepresentation of fact in information required to be maintained
8-21 or submitted to the department [~~Texas Department of Licensing and~~
8-22 ~~Regulation~~] by the license holder;

8-23 (5) failing to keep and transmit records as required
8-24 by a law within the jurisdiction of the department [~~Texas~~
8-25 ~~Department of Licensing and Regulation~~];

8-26 (6) being indebted to the state for a fee, payment of a
8-27 penalty, or a tax imposed by [a] law [~~within the jurisdiction of the~~
8-28 ~~Texas Department of Licensing and Regulation~~]; or

8-29 (7) failing to continue to possess qualifications
8-30 necessary for the issuance of the license.

8-31 SECTION 38. Section 301.254, Agriculture Code, is amended
8-32 to read as follows:

8-33 Sec. 301.254. PROCEDURES FOR NOTICE AND HEARINGS. The
8-34 department [~~Texas Department of Licensing and Regulation~~] by rule
8-35 shall establish procedures for public notice and any public hearing
8-36 under this subchapter.

8-37 SECTION 39. Section 301.255, Agriculture Code, is amended
8-38 to read as follows:

8-39 Sec. 301.255. HEARINGS. A hearing under this subchapter
8-40 shall be conducted in accordance with the hearing rules adopted by
8-41 the department [~~Texas Department of Licensing and Regulation~~] and
8-42 the applicable provisions of Chapter 2001, Government Code.

8-43 SECTION 40. Section 301.256, Agriculture Code, is amended
8-44 to read as follows:

8-45 Sec. 301.256. REVOCATION OR SUSPENSION BY CONSENT. If a
8-46 permit holder or license holder requests or consents to the
8-47 revocation or suspension of the permit or license, the department
8-48 [~~executive director~~] may revoke or suspend the permit or license
8-49 without a hearing.

8-50 SECTION 41. Section 301.257, Agriculture Code, is amended
8-51 to read as follows:

8-52 Sec. 301.257. OTHER RELIEF. A proceeding brought by the
8-53 department [~~Texas Department of Licensing and Regulation~~] under
8-54 this subchapter does not affect the authority of the department
8-55 [~~Texas Department of Licensing and Regulation~~] to bring suit for
8-56 injunctive relief or a penalty, or both, under this chapter.

8-57 SECTION 42. Section 302.001, Agriculture Code, is amended
8-58 to read as follows:

8-59 Sec. 302.001. FINDINGS. The legislature finds that weather
8-60 modification and control activities may have a significant impact
8-61 on Texas agriculture. The legislature further finds that the
8-62 department [~~Texas Department of Licensing and Regulation~~] is the
8-63 proper state agency to administer grants to political subdivisions
8-64 for weather modification and control activities.

8-65 SECTION 43. Section 302.002, Agriculture Code, is amended
8-66 to read as follows:

8-67 Sec. 302.002. DEFINITION [DEFINITIONS]. In this chapter, [+
8-68 [~~(1) "Commission" means the Texas Commission of~~
8-69 ~~Licensing and Regulation.~~

9-1 [~~(2)~~ "Department" means the Texas Department of
9-2 Licensing and Regulation.

9-3 [~~(3)~~] "weather [~~Weather~~] modification and control"
9-4 means changing or controlling, or attempting to change or control,
9-5 by artificial methods the natural development of atmospheric cloud
9-6 forms or precipitation forms that occur in the troposphere.

9-7 SECTION 44. Subdivision (1), Section 301.001, Agriculture
9-8 Code, is repealed.

9-9 SECTION 45. (a) On October 1, 2007:

9-10 (1) all duties, obligations, rights, contracts,
9-11 records, assets, funds, appropriations, and property, excluding
9-12 real property and office space, of the Texas Department of
9-13 Licensing and Regulation that relate primarily to weather
9-14 modification and control are transferred to the Department of
9-15 Agriculture;

9-16 (2) all rules, policies, forms, procedures, and
9-17 decisions of the Texas Department of Licensing and Regulation that
9-18 relate primarily to weather control and modification are continued
9-19 in effect as rules, policies, forms, procedures, and decisions of
9-20 the Department of Agriculture until superseded by a rule or other
9-21 appropriate action of the Department of Agriculture; and

9-22 (3) the full-time employees of the Texas Department of
9-23 Licensing and Regulation who primarily perform duties related to
9-24 weather control and modification become employees of the Department
9-25 of Agriculture.

9-26 (b) Not later than September 21, 2007, the Texas Department
9-27 of Licensing and Regulation shall enter into a memorandum of
9-28 understanding with the Department of Agriculture to implement this
9-29 section.

9-30 SECTION 46. This Act takes effect September 1, 2007.

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