

By: Flynn

H.B. No. 3236

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Department of Agriculture and the Prescribed Burning Board and the abolition of the Texas-Israel Exchange Fund Board.

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

ARTICLE 1. TEXAS AGRICULTURAL FINANCE AUTHORITY

SECTION 1.01. Sections 44.001(1) and (2), Agriculture Code, are amended to read as follows:

(1) "Eligible lending institution" means a financial institution that makes commercial loans, is either a depository of state funds or an institution of the Farm Credit System headquartered in this state, and agrees to participate in the interest rate reduction [~~linked deposit~~] program and to provide collateral equal to the amount of linked deposits placed with it.

(2) "Eligible borrower" means a person who proposes to use the proceeds of a loan under this chapter in a manner that will help accomplish the state's goal of fostering the creation and expansion of enterprises based on agriculture in this state [~~is in the business or entering the business of:~~

~~[(A) processing and marketing agricultural crops in this state,~~

~~[(B) producing alternative agricultural crops in this state,~~

~~[(C) producing agricultural crops in this state~~

1 ~~the production of which has declined because of natural disasters,~~
2 ~~[(D) producing agricultural crops in this state~~
3 ~~using water conservation equipment for agricultural production~~
4 ~~purposes; or~~
5 ~~[(E) providing nonagricultural goods or services~~
6 ~~that provide an economic benefit to a municipality or county in a~~
7 ~~rural area].~~

8 SECTION 1.02. The heading to Section 44.007, Agriculture
9 Code, is amended to read as follows:

10 Sec. 44.007. INTEREST RATE REDUCTION [~~LINKED DEPOSIT~~]
11 PROGRAM.

12 SECTION 1.03. Sections 44.007(a), (c), (d), (k), and (l),
13 Agriculture Code, are amended to read as follows:

14 (a) The board shall establish an interest rate reduction [~~a~~
15 ~~linked deposit~~] program to foster the creation and expansion of
16 enterprises based on agriculture in this state [~~+~~

17 ~~[(1) encourage commercial lending for the enhanced~~
18 ~~production, processing, and marketing of certain agricultural~~
19 ~~crops,~~

20 ~~[(2) encourage the development or expansion of~~
21 ~~businesses in rural areas of this state, and~~

22 ~~[(3) finance water conservation projects or equipment~~
23 ~~for agricultural production purposes].~~

24 (c) The board shall promulgate rules for the loan portion of
25 the interest rate reduction [~~linked deposit~~] program. [~~The rules~~
26 ~~must include:~~

27 ~~[(1) a list of the categories of crops customarily~~

1 ~~grown in Texas, with consideration given to the Texas Agricultural~~
2 ~~Statistics Service information available and relevant to this~~
3 ~~determination;~~

4 ~~[(2) a list of crops that are alternative agricultural~~
5 ~~crops, with consideration given to the Texas Agricultural~~
6 ~~Statistics Service information available and relevant to this~~
7 ~~determination;~~

8 ~~[(3) identification of criteria for a project eligible~~
9 ~~for natural disaster assistance; and~~

10 ~~[(4) identification of projects and types of equipment~~
11 ~~considered as water conservation projects or equipment for~~
12 ~~agricultural production purposes.]~~

13 (d) In order to participate in the interest rate reduction
14 ~~[linked deposit]~~ program, an eligible lending institution may
15 solicit loan applications from eligible borrowers.

16 (k) The board may adopt rules that create a procedure for
17 determining priorities for loans granted under this chapter. Each
18 rule adopted must state the policy objective of the rule. ~~[The~~
19 ~~policy objectives of the rules may include preferences to:~~

20 ~~[(1) achieve adequate geographic distribution of~~
21 ~~loans;~~

22 ~~[(2) assist certain industries;~~

23 ~~[(3) encourage certain practices including water~~
24 ~~conservation; and~~

25 ~~[(4) encourage value-added processing of agricultural~~
26 ~~products.]~~

27 (1) A lending institution is not ineligible to participate

1 in the interest rate reduction [~~linked deposit~~] program solely
2 because a member of the board is also an officer, director, or
3 employee of the lending institution, provided that a board member
4 shall recuse himself or herself from any action taken by the board
5 on an application involving a lending institution by which the
6 board member is employed or for which the board member serves as an
7 officer or director.

8 SECTION 1.04. Sections 44.010(a) and (b), Agriculture Code,
9 are amended to read as follows:

10 (a) At any one time, not more than \$30 million [~~, \$10 million~~
11 ~~of which may be used only to finance water conservation projects and~~
12 ~~\$5 million of which may be used only to finance the economic~~
13 ~~development of businesses in rural areas,~~] may be placed in linked
14 deposits under this chapter.

15 (b) The maximum amount of a loan under this chapter [~~to~~
16 ~~process and market Texas agricultural crops~~] is \$500,000. [~~The~~
17 ~~maximum amount of a loan under this chapter to produce alternative~~
18 ~~agricultural crops in this state is \$250,000. The maximum amount of~~
19 ~~a loan under this chapter to finance water conservation projects or~~
20 ~~equipment for agricultural production purposes is \$250,000. The~~
21 ~~maximum amount of a loan under this chapter to finance production of~~
22 ~~a crop declared eligible for natural disaster relief, as defined by~~
23 ~~board rule, is \$250,000. The maximum amount of a loan under this~~
24 ~~chapter to finance a business in a rural area is \$250,000.]~~

25 SECTION 1.05. Section 58.012, Agriculture Code, is amended
26 by amending Subsections (a), (b), and (c) and adding Subsection (g)
27 to read as follows:

1 (a) The authority is governed by a board of directors
2 composed of the commissioner of agriculture, the director of the
3 Institute for International Agribusiness Studies at Prairie View
4 A&M University, and nine [~~seven~~] members appointed by the
5 commissioner [~~governor with the advice and consent of the senate~~].
6 Members of the board must be appointed in the numbers specified and
7 from the following categories:

8 (1) one person who is an elected or appointed official
9 of a municipality or county;

10 (2) four persons who are knowledgeable about
11 agricultural lending practices;

12 (3) one person who is a representative of agricultural
13 businesses; [~~and~~]

14 (4) one person who is a representative of agriculture
15 related entities, including rural chambers of commerce,
16 foundations, trade associations, institutions of higher education,
17 or other entities involved in agricultural matters; and

18 (5) two persons who represent young farmers and the
19 interests of young farmers.

20 (b) The appointed members of the board serve staggered terms
21 of two years, with the terms of four [~~three~~] members expiring on
22 January 1 of each even-numbered year and the terms of five [~~four~~]
23 members expiring on January 1 of each odd-numbered year.

24 (c) Any vacancy occurring in an appointed position on the
25 board shall be filled by the commissioner [~~governor~~] for the
26 unexpired term.

27 (g) Notwithstanding Subsection (f), age may be considered

1 by the commissioner in making appointments under Subsection (a)(5).

2 SECTION 1.06. Section 58.013(a), Agriculture Code, is
3 amended to read as follows:

4 (a) The commissioner [~~governor~~] shall designate a member of
5 the board as the chairman of the board to serve in that capacity at
6 the pleasure of the commissioner [~~governor~~]. The board shall elect
7 a vice-chairman biennially from its members and shall elect a
8 secretary, a treasurer, and other officers it considers necessary.

9 SECTION 1.07. Section 58.0176(a), Agriculture Code, is
10 amended to read as follows:

11 (a) Before a member of the board may assume the member's
12 duties [~~and before the member may be confirmed by the senate~~], the
13 member must complete at least one course of the training program
14 established under this section.

15 SECTION 1.08. Sections 58.023(c) and (d), Agriculture Code,
16 are amended to read as follows:

17 (c) Eligible agricultural businesses or lenders
18 participating in the authority's programs shall pay the costs of
19 applying for, participating in, and administering and servicing the
20 program, in amounts the board considers reasonable and necessary.
21 The board shall charge an administrative fee for guaranteeing a
22 loan under Subchapter E that may not be less than one percent of the
23 amount of the guaranteed loan. Any costs not paid by the eligible
24 agricultural businesses or lenders shall be paid from the funds of
25 the authority, including those funds established from bond
26 proceeds.

27 (d) The board by rule shall adopt an agreement to be used

1 between a lender and an approved applicant under which the
2 authority makes a payment from the Texas agricultural fund for the
3 purpose of providing a reduced interest rate on a loan guaranteed to
4 a borrower [~~under this subchapter~~]. The agreement must require the
5 borrower to use the proceeds of the loan for the purposes of the
6 program under which the payment is made. The board shall adopt
7 rules to implement this subsection.

8 SECTION 1.09. Subchapter D, Chapter 58, Agriculture Code,
9 is amended by adding Section 58.041 to read as follows:

10 Sec. 58.041. ISSUANCE OF DEBT BY TEXAS PUBLIC FINANCE
11 AUTHORITY. (a) In this section, "debt instrument" means a note,
12 debenture, bond, or other evidence of indebtedness.

13 (b) The Texas Public Finance Authority has the exclusive
14 authority to act on behalf of the authority in issuing debt
15 instruments authorized to be issued by the authority. A reference
16 in law to a debt instrument issued by the authority, in the context
17 of a debt instrument issued on or after September 1, 2009, means a
18 debt instrument issued by the Texas Public Finance Authority on
19 behalf of the authority.

20 (c) Notwithstanding Section 58.034(e), the authority shall
21 pay all costs incurred by the Texas Public Finance Authority for
22 issuing debt instruments on behalf of the authority and associated
23 fees and expenses.

24 (d) When the board authorizes the issuance of debt
25 instruments to fund a loan, the authority shall notify the Texas
26 Public Finance Authority of the amount of the loan and the recipient
27 of the loan and request the Texas Public Finance Authority to issue

1 debt instruments in an amount necessary to fund the loan. The
2 authority and the Texas Public Finance Authority shall determine
3 the amount and time of a debt instrument issue to best provide funds
4 for one or multiple loans.

5 (e) The Texas Public Finance Authority, at the request of
6 the authority, may issue debt instruments to provide money to the
7 Texas agricultural fund.

8 (f) The Texas Public Finance Authority may sell debt
9 instruments in any manner it determines to be in the best interest
10 of the authority, except that it may not sell a debt instrument that
11 has not been approved by the attorney general and registered with
12 the comptroller.

13 (g) The authority, in consultation with the Texas Public
14 Finance Authority, shall adopt rules containing criteria for
15 evaluating the creditworthiness of loan applicants and the
16 financial feasibility of projects to be funded with debt
17 instruments issued by the Texas Public Finance Authority on behalf
18 of the authority.

19 (h) The Texas Public Finance Authority may enter into a
20 credit agreement for a debt instrument issued by the Texas Public
21 Finance Authority on behalf of the authority for a period and on
22 conditions approved by the Texas Public Finance Authority.

23 (i) This subsection applies only in relation to general
24 obligation debt instruments. To the extent other sources of revenue
25 available for payment of the authority's debts are insufficient and
26 in accordance with the Texas Constitution, general revenue is to be
27 appropriated to the Texas Public Finance Authority in an amount

1 determined by the Texas Public Finance Authority to be necessary to
2 pay the principal, premium if any, and interest on general
3 obligation debt instruments issued by the Texas Public Finance
4 Authority on behalf of the authority, and that amount shall be
5 specified in the biennial appropriations acts.

6 SECTION 1.10. The heading to Subchapter E, Chapter 58,
7 Agriculture Code, is amended to read as follows:

8 SUBCHAPTER E. AGRICULTURAL [~~YOUNG FARMER~~] LOAN GUARANTEE PROGRAM

9 SECTION 1.11. Section 58.051(2), Agriculture Code, is
10 amended to read as follows:

11 (2) "Eligible applicant" means a person applying for a
12 loan guarantee under this subchapter who [+

13 [~~(A) is at least 18 years of age but younger than~~
14 ~~40 years of age, and~~

15 [~~(B)~~] complies with the application procedures
16 prescribed by this subchapter.

17 SECTION 1.12. The heading to Section 58.052, Agriculture
18 Code, is amended to read as follows:

19 Sec. 58.052. AGRICULTURAL [~~YOUNG FARMER~~] LOAN GUARANTEE
20 PROGRAM.

21 SECTION 1.13. Section 58.052, Agriculture Code, is amended
22 by amending Subsections (b), (c), and (e) and adding Subsection (f)
23 to read as follows:

24 (b) The board, either directly or through authority
25 delegated to the commissioner, may grant to an eligible applicant a
26 guarantee of a loan made by a commercial lender for the purposes
27 prescribed by this subchapter. The board by rule shall establish

1 tiered loan guarantee limits. To be eligible to be guaranteed under
2 this subchapter, a loan with a term of more than one year must have a
3 fixed interest rate [~~guarantee amount may not exceed the lesser of~~
4 ~~\$250,000 or 90 percent of the loan amount~~].

5 (c) The aggregate amount guaranteed under this subchapter
6 may not exceed the lesser of three-fourths of [~~twice~~] the amount
7 contained in the [~~young farmer loan guarantee account within the~~]
8 Texas agricultural fund or \$12 million.

9 (e) The board shall adopt an agreement, to be used between a
10 commercial lender and an approved eligible applicant, under which
11 the program provides a payment from money in the Texas agricultural
12 fund [~~young farmer loan guarantee account~~] for the purpose of
13 providing a reduced interest rate on a loan guaranteed to a borrower
14 under this subchapter. The board shall adopt rules to implement
15 this subsection. The maximum rate reduction under this subsection
16 per year for each borrower may [~~shall~~] not exceed three percentage
17 points or an amount that results in \$10,000 in interest savings for
18 the borrower for the year.

19 (f) The board by rule shall establish a certified lender
20 program under which the board may certify commercial lenders to
21 participate in the agricultural loan guarantee program in order to
22 expedite the processing of loan guarantee applications by the
23 board.

24 SECTION 1.14. Section 58.056, Agriculture Code, is amended
25 to read as follows:

26 Sec. 58.056. MONEY FOR LOAN GUARANTEE PROGRAM. The
27 authority may accept gifts and grants of money from the federal

1 government, local governments, private corporations, or other
 2 persons for use in the agricultural [~~young farmer~~] loan guarantee
 3 program. The legislature may appropriate money for the program.

4 SECTION 1.15. Sections 58.057(b), (c), and (d), Agriculture
 5 Code, are transferred to Section 58.032, Agriculture Code,
 6 relettered as Subsections (g), (h), and (i) of that section, and
 7 amended to read as follows:

8 (g) [~~(b)~~] The fund includes [~~account consists of funds and~~
 9 ~~transfers made to the account,~~] grants and donations made for the
 10 purposes of the programs administered by the Texas Agricultural
 11 Finance Authority [~~the young farmer loan guarantee program, income~~
 12 ~~earned on money in the account,~~] and any other money received under
 13 this chapter [~~subchapter~~]. Notwithstanding Section 404.071,
 14 Government Code, income and interest earned on money in the fund
 15 [~~account~~] shall be deposited to the credit of the fund [~~account~~].
 16 [~~At the end of each state fiscal year the authority shall transfer~~
 17 ~~to the general credit of the Texas agricultural fund any interest~~
 18 ~~earned on the account that remains after payment of any~~
 19 ~~administrative expenses of the program.] The fund [~~account~~] is
 20 exempt from the application of Section 403.095, Government Code.~~

21 (h) [~~(c)~~] The board may spend not more than \$100,000 during
 22 each fiscal year from income earned on the fund [~~account~~] and from
 23 application fees collected by the authority under Section 58.053 to
 24 pay the costs of administering the program.

25 (i) [~~(d)~~] The board shall attempt to administer the fund in
 26 a manner that makes private donations to the fund an eligible
 27 itemized deduction for federal income taxation purposes.

1 SECTION 1.16. Chapter 58, Agriculture Code, is amended by
2 adding Subchapter F to read as follows:

3 SUBCHAPTER F. YOUNG FARMER INTEREST RATE REDUCTION PROGRAM

4 Sec. 58.071. DEFINITIONS. In this subchapter:

5 (1) "Eligible lending institution" means a financial
6 institution that makes commercial loans, is either a depository of
7 state funds or an institution of the Farm Credit System
8 headquartered in this state, and agrees to participate in the young
9 farmer interest rate reduction program and to provide collateral
10 equal to the amount of linked deposits placed with it.

11 (2) "Linked deposit" means a time deposit governed by
12 a written deposit agreement between the state and an eligible
13 lending institution that provides:

14 (A) that the eligible lending institution pay
15 interest on the deposit at a rate that is not less than the greater
16 of:

17 (i) the current market rate of a United
18 States treasury bill or note of comparable maturity minus three
19 percent; or

20 (ii) 0.5 percent;

21 (B) that the state not withdraw any part of the
22 deposit before the expiration of a period set by a written advance
23 notice of the intention to withdraw; and

24 (C) that the eligible lending institution agree
25 to lend the value of the deposit to an eligible borrower at a
26 maximum rate that is the linked deposit rate plus a maximum of four
27 percent.

1 Sec. 58.072. YOUNG FARMER INTEREST RATE REDUCTION PROGRAM.

2 (a) The board shall establish a young farmer interest rate
3 reduction program to promote the creation and expansion of
4 agricultural businesses by young people in this state.

5 (b) To be eligible to participate in the young farmer
6 interest rate reduction program, an applicant must be at least 18
7 years of age but younger than 45 years of age.

8 (c) The board shall approve or disapprove any and all
9 applications under this subchapter, provided that the board may
10 delegate this authority to the commissioner.

11 (d) The board shall adopt rules for the loan portion of the
12 young farmer interest rate reduction program.

13 (e) In order to participate in the young farmer interest
14 rate reduction program, an eligible lending institution may solicit
15 loan applications from eligible applicants.

16 (f) After reviewing an application and determining that the
17 applicant is eligible and creditworthy, the eligible lending
18 institution shall send the application for a linked deposit loan to
19 the administrator of the authority.

20 (g) The eligible lending institution shall certify the
21 interest rate applicable to the specific eligible applicant and
22 attach it to the application sent to the administrator of the
23 authority.

24 (h) After reviewing each loan application under this
25 subchapter, the board or the commissioner shall recommend to the
26 comptroller the acceptance or rejection of the application.

27 (i) After acceptance of the application, the comptroller

1 shall place a linked deposit with the applicable eligible lending
2 institution for the period the comptroller considers appropriate.
3 The comptroller may not place a deposit for a period extending
4 beyond the state fiscal biennium in which it is placed. Subject to
5 the limitation described by Section 58.075, the comptroller may
6 place time deposits at an interest rate described by Section
7 58.071(2).

8 (j) Before the placing of a linked deposit, the eligible
9 lending institution and the state, represented by the comptroller,
10 shall enter into a written deposit agreement containing the
11 conditions on which the linked deposit is made.

12 (k) If a lending institution holding linked deposits ceases
13 to be either a state depository or a Farm Credit System institution
14 headquartered in this state, the comptroller may withdraw the
15 linked deposits.

16 (l) The board may adopt rules that create a procedure for
17 determining priorities for loans granted under this subchapter.
18 Each rule adopted must state the policy objective of the rule.

19 (m) A lending institution is not ineligible to participate
20 in the young farmer interest rate reduction program solely because
21 a member of the board is also an officer, director, or employee of
22 the lending institution, provided that a board member shall recuse
23 himself or herself from any action taken by the board on an
24 application involving a lending institution by which the board
25 member is employed or for which the board member serves as an
26 officer or director.

27 (n) Linked deposits under the young farmer interest rate

1 reduction program shall be funded from the Texas agricultural fund.

2 Sec. 58.073. COMPLIANCE. (a) On accepting a linked
3 deposit, an eligible lending institution must loan money to
4 eligible applicants in accordance with the deposit agreement and
5 this subchapter. The eligible lending institution shall forward a
6 compliance report to the board.

7 (b) The board shall monitor compliance with this subchapter
8 and inform the comptroller of noncompliance on the part of an
9 eligible lending institution.

10 Sec. 58.074. STATE LIABILITY PROHIBITED. The state is not
11 liable to an eligible lending institution for payment of the
12 principal, interest, or any late charges on a loan made under this
13 subchapter. A delay in payment or default on a loan by a borrower
14 does not affect the validity of the deposit agreement. Linked
15 deposits are not an extension of the state's credit within the
16 meaning of any state constitutional prohibition.

17 Sec. 58.075. LIMITATIONS IN PROGRAM. (a) At any one time,
18 not more than one-fourth of the amount of money in the Texas
19 agricultural fund may be placed in linked deposits under this
20 subchapter.

21 (b) The maximum amount of a loan under this subchapter is
22 \$500,000.

23 (c) A loan granted under this subchapter may be used for any
24 agriculture-related operating expense, including the purchase or
25 lease of land or fixed assets acquisition or improvement, as
26 identified in the application.

27 SECTION 1.17. Chapter 58, Agriculture Code, is amended by

1 adding Subchapter G to read as follows:

2 SUBCHAPTER G. YOUNG FARMER GRANT PROGRAM

3 Sec. 58.091. GRANT PROGRAM. (a) The authority shall
4 administer a young farmer grant program. A grant must be for the
5 purpose of fostering the creation and expansion of agricultural
6 businesses by young people in this state.

7 (b) The board shall adopt rules governing the operation of
8 the program and selection criteria for grant recipients.

9 (c) The board shall select grant recipients.

10 Sec. 58.092. ELIGIBILITY. To be eligible to receive a grant
11 under this subchapter, a person must:

12 (1) be an agricultural producer who is at least 18
13 years of age but younger than 45 years of age; and

14 (2) provide matching funds in the amount of not less
15 than one dollar for each dollar of grant money received.

16 Sec. 58.093. AMOUNT OF GRANTS. A grant under the young
17 farmer grant program may not be less than \$5,000 or more than
18 \$20,000.

19 Sec. 58.094. APPLICATIONS. (a) The authority shall accept
20 grant applications during two application periods each year.

21 (b) Applicants shall submit an application on a form
22 approved by the board or the board's designee.

23 Sec. 58.095. FUNDING. The source of funds for the young
24 farmer grant program is the Texas agricultural fund.

25 SECTION 1.18. Section 1232.101, Government Code, is amended
26 to read as follows:

27 Sec. 1232.101. ISSUANCE OF BONDS FOR CERTAIN STATE

1 AGENCIES. With respect to all bonds authorized to be issued by or
2 on behalf of the adjutant general's department, Parks and Wildlife
3 Department, Texas Agricultural Finance Authority, Texas Low-Level
4 Radioactive Waste Disposal Authority, Stephen F. Austin State
5 University, Midwestern State University, and Texas Southern
6 University, the authority has the exclusive authority to act on
7 behalf of those entities in issuing bonds on their behalf. In
8 connection with those issuances and with the issuance of refunding
9 bonds on behalf of those entities, the authority is subject to all
10 rights, duties, and conditions surrounding issuance previously
11 applicable to the issuing entity under the statute authorizing the
12 issuance. A reference in an authorizing statute to the entity on
13 whose behalf the bonds are being issued applies equally to the
14 authority in its capacity as issuer on behalf of the entity.

15 SECTION 1.19. Section 1372.028(d), Government Code, is
16 amended to read as follows:

17 (d) An issuer is not required to provide the statement
18 required by Subsection (c)(3)(F) if the issuer:

19 (1) is an issuer of a state-voted issue;

20 (2) is the Texas Department of Housing and Community
21 Affairs[~~, the Texas Agricultural Finance Authority,~~] or the Texas
22 State Affordable Housing Corporation; or

23 (3) provides evidence that one or more binding
24 contracts have been entered into, or other evidence acceptable to
25 the board as described by program rule, to spend the unexpended
26 proceeds by the later of:

27 (A) 12 months after the date the board receives

1 the application; or

2 (B) December 31 of the program year for which the
3 application is filed.

4 SECTION 1.20. Section 502.174(b), Transportation Code, is
5 amended to read as follows:

6 (b) The county assessor-collector shall send an assessment
7 collected under this section to the comptroller, at the time and in
8 the manner prescribed by the Texas Agricultural Finance Authority,
9 for deposit in the Texas agricultural fund [~~to the credit of the~~
10 ~~young farmer loan guarantee account~~].

11 SECTION 1.21. The following provisions are repealed:

- 12 (1) Section 44.001(3), Agriculture Code;
13 (2) Section 58.0173(c), Agriculture Code;
14 (3) Section 58.0211(b), Agriculture Code;
15 (4) Sections 58.057(a) and (e), Agriculture Code; and
16 (5) Section 1372.0235, Government Code.

17 SECTION 1.22. On the effective date of this Act:

18 (1) the young farmer loan guarantee program under
19 Subchapter E, Chapter 58, Agriculture Code, as that subchapter
20 existed before amendment by this Act, is abolished; and

21 (2) the agricultural loan guarantee program under
22 Subchapter E, Chapter 58, Agriculture Code, as amended by this Act,
23 is established.

24 SECTION 1.23. On the effective date of this Act, the young
25 farmer loan guarantee account is abolished. All money in the
26 account on that date remains in the Texas agricultural fund. All
27 deposits purportedly made to the account on or after that date shall

1 be deposited in the Texas agricultural fund. All references in law
2 or rule to the young farmer loan guarantee account mean the Texas
3 agricultural fund.

4 SECTION 1.24. (a) As soon as practicable on or after the
5 effective date of this Act, the commissioner of agriculture shall
6 appoint two members to the board of directors of the Texas
7 Agricultural Finance Authority who represent young farmers and the
8 interests of young farmers. In appointing those members, the
9 commissioner shall appoint one person to a term expiring January 1,
10 2010, and one to a term expiring January 1, 2011.

11 (b) The changes in law made by this Act by the amendment of
12 Section 58.012, Agriculture Code, do not affect the entitlement of
13 a member of the board of directors of the Texas Agricultural Finance
14 Authority serving on the board immediately before the effective
15 date of this Act to continue to serve on the board and carry out the
16 board's functions for the remainder of the member's term. The
17 changes in law apply only to a member appointed on or after the
18 effective date of this Act. This Act does not prohibit a person who
19 is a member of the board on the effective date of this Act from being
20 reappointed to the board if the person has the qualifications
21 required for a member under Section 58.012, Agriculture Code, as
22 amended by this Act.

23 ARTICLE 2. PRESCRIBED BURNING BOARD

24 SECTION 2.01. Section 153.001, Natural Resources Code, is
25 amended to read as follows:

26 Sec. 153.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

27 (1) "Board" [~~"board"~~] means the Prescribed Burning

1 Board.

2 (2) "Department" means the Department of Agriculture.

3 SECTION 2.02. Subchapter A, Chapter 153, Natural Resources
4 Code, is amended by adding Section 153.004 to read as follows:

5 Sec. 153.004. PRESCRIBED BURNING IN STATE OF EMERGENCY OR
6 DISASTER. A certified and insured prescribed burn manager may
7 conduct a burn in a county in which a state of emergency or state of
8 disaster has been declared by the governor or the president of the
9 United States, unless the declaration expressly prohibits all
10 outdoor burning.

11 SECTION 2.03. Section 153.041(a), Natural Resources Code,
12 is amended to read as follows:

13 (a) The Prescribed Burning Board is established within the
14 department [~~Department of Agriculture~~] and is composed of:

15 (1) an employee of the Texas Forest Service designated
16 by the director of the Texas Forest Service;

17 (2) an employee of the Parks and Wildlife Department
18 appointed by the executive director of the Parks and Wildlife
19 Department;

20 (3) an employee of the Texas Commission on
21 Environmental Quality [~~Natural Resource Conservation Commission~~]
22 appointed by the executive director of the Texas Commission on
23 Environmental Quality [~~Natural Resource Conservation Commission~~];

24 (4) an employee of the Texas AgriLife [~~Agricultural~~]
25 Extension Service appointed by the executive director of the Texas
26 AgriLife [~~Agricultural~~] Extension Service;

27 (5) an employee of [~~the~~] Texas AgriLife Research

1 ~~[Agricultural Experiment Station]~~ appointed by the director of
2 ~~[the]~~ Texas AgriLife Research ~~[Agricultural Experiment Station];~~

3 (6) an employee of the Texas Tech University Range and
4 Wildlife Department appointed by the dean of the Texas Tech
5 University College of Agricultural Sciences and Natural Resources;

6 (7) an employee of the department ~~[Department of~~
7 ~~Agriculture]~~ appointed by the commissioner of agriculture;

8 (8) an employee of the State Soil and Water
9 Conservation Board appointed by the executive director of the State
10 Soil and Water Conservation Board; and

11 (9) five persons who are:

12 (A) owners of agricultural land, as that term is
13 defined by Section 153.081;

14 (B) self-employed or employed by a person other
15 than a governmental entity; and

16 (C) appointed by the commissioner of
17 agriculture.

18 SECTION 2.04. Section 153.044, Natural Resources Code, is
19 amended to read as follows:

20 Sec. 153.044. SUNSET PROVISION. The Prescribed Burning
21 Board is subject to Chapter 325, Government Code (Texas Sunset
22 Act). The board shall be reviewed during the period in which the
23 Department of Agriculture is reviewed ~~[Unless continued in~~
24 ~~existence as provided by that chapter, the board is abolished and~~
25 ~~this chapter expires September 1, 2009].~~

26 SECTION 2.05. Section 153.046, Natural Resources Code, is
27 amended to read as follows:

1 Sec. 153.046. DUTIES. The board shall:

2 (1) establish standards for prescribed burning;

3 (2) develop a comprehensive training curriculum for
4 prescribed burn managers;

5 (3) establish standards for certification,
6 recertification, and training for prescribed burn managers;

7 (4) establish minimum education and professional
8 requirements for instructors for the approved curriculum; and

9 (5) establish minimum insurance requirements for
10 certified and insured prescribed burn managers.

11 SECTION 2.06. Section 153.047, Natural Resources Code, is
12 amended to read as follows:

13 Sec. 153.047. PRESCRIBED BURNING STANDARDS. Minimum
14 standards established by the board for prescribed burning must:

15 (1) ensure that prescribed burning is the controlled
16 application of fire to naturally occurring or naturalized
17 vegetative fuels under specified environmental conditions in
18 accordance with a written prescription plan:

19 (A) designed to confine the fire to a
20 predetermined area and to accomplish planned land management
21 objectives; and

22 (B) that conforms to the standards established
23 under this section;

24 (2) require that at least one certified and insured
25 prescribed burn manager is present on site during the conduct of the
26 prescribed burn;

27 (3) establish appropriate guidelines for size of

1 burning crews sufficient to:

2 (A) conduct the burn in accordance with the
3 prescription plan; and

4 (B) provide adequate protection for the safety of
5 persons and of adjacent property;

6 (4) include standards for notification to adjacent
7 land owners, the Texas Commission on Environmental Quality [~~Natural~~
8 ~~Resource Conservation Commission~~], and local fire authorities; and

9 (5) include minimum insurance requirements for
10 certified and insured prescribed burn managers.

11 SECTION 2.07. Sections 153.048(c) and (e), Natural
12 Resources Code, are amended to read as follows:

13 (c) The certification is for two [~~five~~] years.

14 (e) The board shall maintain a register of certified and
15 insured prescribed burn managers and dates of completion of initial
16 and continuing training.

17 SECTION 2.08. Sections 153.081(a) and (b), Natural
18 Resources Code, are amended to read as follows:

19 (a) Subject to Section 153.082, an owner, lessee, or
20 occupant of agricultural land is not liable for property damage or
21 for injury or death to persons caused by or resulting from
22 prescribed burning conducted on the land owned by, leased by, or
23 occupied by the person if the prescribed burning is conducted under
24 the supervision of a certified and insured prescribed burn manager.

25 (b) This section does not apply to an owner, lessee, or
26 occupant of agricultural land who is a certified and insured
27 prescribed burn manager and conducts a burn on that land.

1 SECTION 2.09. Section 153.082, Natural Resources Code, is
2 amended to read as follows:

3 Sec. 153.082. INSURANCE. The limitation on liability under
4 Section 153.081 does not apply to an owner, lessee, or occupant of
5 agricultural land unless the certified and insured prescribed burn
6 manager conducting a burn on the land has liability insurance
7 coverage:

8 (1) of at least \$1 million for each single occurrence
9 of bodily injury or death, or injury to or destruction of property;
10 and

11 (2) with a policy period minimum aggregate limit of at
12 least \$2 million.

13 SECTION 2.10. Chapter 153, Natural Resources Code, is
14 amended by adding Subchapter D to read as follows:

15 SUBCHAPTER D. COMPLAINTS, ENFORCEMENT, AND PENALTIES

16 Sec. 153.101. COMPLAINTS. The department shall receive and
17 process complaints concerning prescribed burn managers in the
18 manner described by Section 12.026, Agriculture Code, and rules
19 adopted under that section.

20 Sec. 153.102. DISCIPLINARY ACTION; SCHEDULE OF SANCTIONS.

21 (a) The department may impose an administrative sanction,
22 including an administrative penalty, as provided by Sections
23 12.020, 12.0201, 12.0202, and 12.0261, Agriculture Code, for a
24 violation of this chapter.

25 (b) The department by rule shall adopt a schedule of the
26 disciplinary sanctions that the department may impose under this
27 chapter. In adopting the schedule of sanctions, the department

1 shall ensure that the severity of the sanction imposed is
2 appropriate to the type of violation or conduct that is the basis
3 for disciplinary action.

4 (c) In determining the appropriate disciplinary action,
5 including the amount of any administrative penalty to assess, the
6 department shall consider:

7 (1) whether the person:

8 (A) is being disciplined for multiple violations
9 of either this chapter or a rule or order adopted under this
10 chapter; or

11 (B) has previously been the subject of
12 disciplinary action by the department under this chapter and has
13 previously complied with department rules and this chapter;

14 (2) the seriousness of the violation;

15 (3) the threat to public safety; and

16 (4) any mitigating factors.

17 Sec. 153.103. INJUNCTION. (a) The department may apply to
18 a district court in any county for an injunction to restrain a
19 person who is not a certified and insured prescribed burn manager
20 from representing that the person is a certified and insured
21 prescribed burn manager.

22 (b) At the request of the department, the attorney general
23 shall initiate and conduct an action in a district court in the
24 state's name to obtain an injunction under this section.

25 Sec. 153.104. EMERGENCY SUSPENSION. (a) On determining
26 that a certification holder is engaged in or about to engage in a
27 violation of this chapter and that the certification holder's

1 continued practice constitutes an immediate threat to the public
2 welfare, the department may issue an order suspending the
3 certification holder's certification without notice or a hearing.
4 The department shall immediately serve notice of the suspension on
5 the certification holder.

6 (b) The notice required by Subsection (a) must:

7 (1) be personally served on the certification holder
8 or be sent by registered or certified mail, return receipt
9 requested, to the certification holder's last known address
10 according to the board's records;

11 (2) state the grounds for the suspension; and

12 (3) inform the certification holder of the right to a
13 hearing on the suspension order.

14 (c) A certification holder whose certification is suspended
15 under this section is entitled to request a hearing on the
16 suspension not later than the 30th day after the date of receipt of
17 notice of the suspension. Not later than the fifth day after the
18 date a hearing is requested, the department shall issue a notice of
19 hearing.

20 (d) The hearing shall be held not later than the fifth day
21 after the date notice of hearing is issued, unless the parties agree
22 to a later date. A hearing on a suspension order under this section
23 is subject to Chapter 2001, Government Code. If the hearing is
24 before an administrative law judge, after the hearing, the
25 administrative law judge shall recommend to the board whether to
26 uphold, vacate, or modify the suspension order.

27 (e) A suspension order issued under this section remains in

1 effect until further action is taken by the department. If the
2 administrative law judge's recommendation under Subsection (d) is
3 to vacate the order, the department shall determine whether to
4 vacate the order not later than the second day after the date of the
5 recommendation.

6 SECTION 2.11. (a) Section 153.048(c), Natural Resources
7 Code, as amended by this Act, applies to a certification issued or
8 renewed after the effective date of this Act. A certification
9 issued or renewed before the effective date of this Act is governed
10 by the law in effect on the date the certification was issued or
11 renewed, and the former law is continued in effect for that purpose.

12 (b) Sections 153.102, 153.103, and 153.104, Natural
13 Resources Code, as added by this Act, apply only to conduct that
14 occurs on or after the effective date of this Act. Conduct that
15 occurs before the effective date of this Act is governed by the law
16 in effect when the conduct occurred, and the former law is continued
17 in effect for that purpose.

18 ARTICLE 3. TEXAS-ISRAEL EXCHANGE FUND BOARD

19 SECTION 3.01. The heading to Chapter 45, Agriculture Code,
20 is amended to read as follows:

21 CHAPTER 45. TEXAS-ISRAEL EXCHANGE RESEARCH PROGRAM [~~FUND~~]

22 SECTION 3.02. Section 45.001, Agriculture Code, is amended
23 to read as follows:

24 Sec. 45.001. LEGISLATIVE FINDINGS; PURPOSE. (a) The
25 legislature finds that Texas and Israel have many interests in
26 common. They face many of the same difficulties in agriculture; the
27 geography of both areas produces semiarid climatic conditions;

1 there is present in both areas a rising demand for a limited supply
2 of water coupled with increasing pressures to minimize the use of
3 energy in all aspects of agriculture. Scientific and technological
4 cooperatives already produce close ties between the two areas while
5 engaging in binational projects for scientific and industrial
6 research and development.

7 A program [~~fund~~] to support joint agricultural research and
8 development by, and the development of trade and business relations
9 between, Texas and Israel will address common problems and make
10 substantial contributions to the development of agriculture,
11 trade, and business in both areas. Since Texas has long emphasized
12 broad-based agricultural research and Israel has originated and
13 developed agricultural technologies designed to maximize
14 production with minimal use of resources such as water and labor,
15 each of the two areas will benefit by sharing information and
16 expertise.

17 (b) The purpose of this chapter is to:

18 (1) establish a program [~~fund~~] to promote and support
19 practical and applied agricultural research and development that
20 will result in mutual benefit to Texas and Israel and will help to
21 provide solutions to food and fiber production problems wherever
22 they exist, particularly those relating to water conservation; and

23 (2) establish a program of mutual cooperation that
24 will foster the development of trade, mutual assistance, and
25 business relations between Texas and Israel.

26 SECTION 3.03. Section 45.002, Agriculture Code, is amended
27 to read as follows:

1 Sec. 45.002. DEFINITION [~~DEFINITIONS~~]. In this chapter, ~~[+]~~

2 ~~[(1)]~~ "applied [~~Applied~~] research" means the process
3 of assembling knowledge gained by careful and diligent search and
4 studious inquiry and examination and using that knowledge to solve
5 practical, real-world problems.

6 ~~[(2)] "Board" means the Texas-Israel Exchange Fund~~
7 ~~Board.~~

8 ~~[(3)] "Fund" means the Texas-Israel Exchange Fund.]~~

9 SECTION 3.04. Section 45.005, Agriculture Code, is amended
10 to read as follows:

11 Sec. 45.005. GENERAL FUNCTIONS, POWERS, AND DUTIES. (a)
12 The department may establish a binational program to support joint
13 agricultural research and development with Israel. The scope of
14 agricultural research and development which the program [~~fund~~] may
15 promote and support encompasses all scientific activities related
16 to agriculture, including production, processing, marketing, and
17 agricultural services, with emphasis on the support of applied
18 research to improve water, labor, and energy utilization in
19 agriculture.

20 (b) The program [~~fund~~] shall support applied research in
21 areas of potential mutual interest, including:

- 22 (1) water conservation;
- 23 (2) water management and use;
- 24 (3) soil management and conservation;
- 25 (4) innovative sources of energy for agricultural
26 production;
- 27 (5) environmental aspects of agricultural technology;

1 (6) intensive crop production; and

2 (7) agricultural engineering and processing.

3 (c) The program [~~fund~~] may undertake agricultural research
4 and development projects of mutual benefit that are located in
5 Texas, Israel, or any other location considered advisable by the
6 department or suggested by the advisory committee [~~boards~~].

7 (d) The department [~~fund~~] may make research or development
8 grants or loans to public or private entities who intend to carry
9 out the stated objectives of the program [~~fund~~].

10 (e) The program [~~fund~~] shall encourage or support the
11 exchange of agricultural producers, scientists, teachers,
12 students, or other types of agricultural experts between the two
13 cooperating areas of Texas and Israel.

14 (f) The program [~~fund~~] shall encourage and support [~~a~~
15 ~~program of~~] mutual cooperation that will foster the development of
16 trade, mutual assistance, and business relations between Texas and
17 Israel.

18 SECTION 3.05. Sections 45.007(b) and (d), Agriculture Code,
19 are amended to read as follows:

20 (b) The department [~~board~~] may accept gifts and grants from
21 the federal government, state government, and private sources, as
22 well as legislative appropriations to carry out the purposes of
23 this chapter. The use of gifts and grants other than legislative
24 appropriation is subject only to limitations contained in the gift
25 or grant.

26 (d) The department [~~board~~] shall make an annual accounting
27 of all money received, awarded, and expended during the year under

1 this chapter to the legislative committees responsible for
2 agricultural issues.

3 SECTION 3.06. Chapter 45, Agriculture Code, is amended by
4 adding Section 45.009 to read as follows:

5 Sec. 45.009. TEXAS-ISREAL EXCHANGE ADVISORY COMMITTEE. The
6 department may establish a binational agricultural research
7 advisory committee to provide guidance and direction on activities
8 conducted under this chapter and the expenditure of money
9 appropriated for the purposes of this chapter.

10 SECTION 3.07. (a) The Texas-Israel Exchange Fund Board and
11 the Texas-Israel Exchange Fund are abolished.

12 (b) The following provisions of the Agriculture Code are
13 repealed:

- 14 (1) Section 45.003;
15 (2) Section 45.004;
16 (3) Section 45.006;
17 (4) Sections 45.007(a) and (c); and
18 (5) Section 45.008.

19 ARTICLE 4. STRUCTURE OF CERTAIN BOARDS AND ADVISORY COMMITTEES

20 SECTION 4.01. Chapter 50B, Agriculture Code, is amended by
21 adding Section 50B.0015 to read as follows:

22 Sec. 50B.0015. DEFINITION. In this chapter, "committee"
23 means the wine industry development and marketing advisory
24 committee.

25 SECTION 4.02. Section 50B.002, Agriculture Code, is amended
26 to read as follows:

27 Sec. 50B.002. WINE INDUSTRY DEVELOPMENT AND MARKETING [↗]

1 ADVISORY COMMITTEE. (a) The commissioner shall [~~may~~] appoint a
2 wine industry development and marketing advisory committee to:

3 (1) develop a long-term vision and marketable identity
4 for the wine industry in the state that take into consideration
5 future industry development, funding, research, educational
6 programming, risk management, and marketing; and

7 (2) assist the commissioner in establishing and
8 implementing the Texas Wine Marketing Assistance Program under
9 Chapter 110, Alcoholic Beverage Code.

10 (b) The committee consists of members appointed by the
11 commissioner who represent a diverse cross-section of the wine
12 industry, including representatives of:

13 (1) grape growers;

14 (2) wineries;

15 (3) wholesalers;

16 (4) package stores;

17 (5) retailers;

18 (6) researchers;

19 (7) consumers;

20 (8) the department; and

21 (9) the Texas Alcoholic Beverage Commission.

22 (c) The members of the committee serve without
23 compensation.

24 (d) A member of the committee serves at the pleasure of the
25 commissioner for a term of two years. The commissioner may
26 reappoint a member to the committee.

27 (e) The commissioner shall select a presiding officer from

1 among the members and adopt rules governing the operation of the
2 committee.

3 (f) The committee shall meet as necessary to provide
4 guidance to the commissioner.

5 SECTION 4.03. Sections 62.002(a) and (d), Agriculture Code,
6 are amended to read as follows:

7 (a) The State Seed and Plant Board is an agency of the state.
8 The board is composed of [~~six members appointed by the governor with~~
9 ~~the advice and consent of the senate. Membership must include~~]:

10 (1) one individual, appointed by the president of
11 Texas A&M University, from the Soils and Crop Sciences Department,
12 Texas Agricultural Experiment Station, Texas A&M [~~A & M~~]
13 University;

14 (2) one individual, appointed by the president of
15 Texas Tech University, from the Department of Plant and Soil
16 Sciences, Texas Tech University;

17 (3) one individual, appointed by the commissioner,
18 licensed as a Texas Foundation, Registered, or Certified seed or
19 plant producer who is not employed by a public institution;

20 (4) one individual, appointed by the commissioner,
21 who sells Texas Foundation, Registered, or Certified seed or
22 plants;

23 (5) one individual, appointed by the commissioner,
24 actively engaged in farming but not a producer or seller of Texas
25 Foundation, Registered, or Certified seed or plants; and

26 (6) the head of the seed division of the department.

27 (d) The commissioner [~~governor~~] shall designate a member of

1 the board as the chairman to serve in that capacity at the pleasure
2 of the commissioner [~~governor~~]. The board annually shall elect a
3 vice-chairman and secretary. The board shall meet at times and
4 places determined by the chairman.

5 SECTION 4.04. Section 62.0027(a), Agriculture Code, is
6 amended to read as follows:

7 (a) Before a member of the board may assume the member's
8 duties [~~and before the member may be confirmed by the senate~~], the
9 member must complete at least one course of the training program
10 established under this section.

11 SECTION 4.05. Sections 103.003(a) and (f), Agriculture
12 Code, are amended to read as follows:

13 (a) The Produce Recovery Fund Board is composed of five
14 members appointed by the commissioner [~~governor with the advice and
15 consent of the senate~~]. Two members must be producers, one must be
16 a license holder licensed under Chapter 101, and two must be members
17 of the general public.

18 (f) The commissioner [~~governor~~] shall designate a member of
19 the board as the chairman of the board to serve in that capacity at
20 the pleasure of the commissioner [~~governor~~].

21 SECTION 4.06. Section 103.019(a), Agriculture Code, is
22 amended to read as follows:

23 (a) Before a member of the board may assume the member's
24 duties [~~and before the member may be confirmed by the senate~~], the
25 member must complete at least one course of the training program
26 established under this section.

27 SECTION 4.07. Section 110.002(b), Alcoholic Beverage Code,

1 is amended to read as follows:

2 (b) The commissioner, in consultation with the advisory
3 committee established under Section 50B.002, Agriculture Code
4 [~~110.003~~], shall adopt rules as necessary to implement the program.

5 SECTION 4.08. The following statutes are repealed:

6 (1) Section 62.0023(c), Agriculture Code;

7 (2) Sections 103.003(b) and 103.017(c), Agriculture
8 Code; and

9 (3) Section 110.003, Alcoholic Beverage Code.

10 SECTION 4.09. On the effective date of this Act, the Texas
11 Wine Marketing Assistance Program advisory committee and the wine
12 industry development advisory committee are abolished. The
13 commissioner of agriculture may appoint a person who previously
14 served on either of those committees to the wine industry
15 development and marketing advisory committee established under
16 Section 50B.002, Agriculture Code, as amended by this Act.

17 SECTION 4.10. The changes in law made by this Act by the
18 amendment of Sections 62.002 and 103.003, Agriculture Code, do not
19 affect the entitlement of a member serving on the State Seed and
20 Plant Board or Produce Recovery Fund Board immediately before the
21 effective date of this Act to continue to serve as a board member
22 for the remainder of the member's term. The changes in law apply
23 only to a member appointed on or after the effective date of this
24 Act.

25 ARTICLE 5. CERTAIN AGRICULTURAL REGULATORY PROGRAMS

26 SECTION 5.01. Section 13.251, Agriculture Code, is amended
27 to read as follows:

1 Sec. 13.251. DEFINITION. In this subchapter, "public
2 weigher" means a business certified under this subchapter [~~person~~
3 ~~who is elected or appointed~~] to issue an official certificate
4 declaring the accurate weight or measure of a commodity that the
5 business [~~person~~] is requested to weigh.

6 SECTION 5.02. Section 13.255, Agriculture Code, is amended
7 to read as follows:

8 Sec. 13.255. CERTIFICATE. (a) A public weigher [~~, whether~~
9 ~~elected or appointed, or deputy public weigher~~] may not officially
10 weigh a commodity unless the weigher has obtained from the
11 department a certificate of authority.

12 (b) A [~~state public weigher must submit a nonrefundable fee,~~
13 ~~as provided by department rule, with the application for a~~
14 ~~certificate of authority. A county public weigher or a deputy~~]
15 public weigher must submit a fee, as provided by department rule,
16 with the application for a certificate of authority.

17 SECTION 5.03. Section 13.2555, Agriculture Code, is amended
18 to read as follows:

19 Sec. 13.2555. REVOCATION, MODIFICATION, OR SUSPENSION OF
20 CERTIFICATE. (a) The department shall revoke, modify, or suspend
21 the certificate of authority of a a [~~an appointed public weigher or a~~
22 ~~deputy of an appointed county~~] public weigher, assess an
23 administrative penalty, place on probation the public weigher
24 [~~person~~] whose certificate has been suspended, or reprimand a a [~~an~~
25 ~~appointed public weigher or a deputy of an appointed county~~] public
26 weigher for a violation of this subchapter or a rule adopted by the
27 department under this subchapter.

1 (b) If a certificate suspension is probated, the department
2 may require the public weigher [~~person~~] to:

3 (1) report regularly to the department on matters that
4 are the basis of the probation;

5 (2) limit practice to the areas prescribed by the
6 department; or

7 (3) continue or renew professional education until the
8 public weigher [~~person~~] attains a degree of skill satisfactory to
9 the department in those areas that are the basis of the probation.

10 (c) If the department proposes to revoke, modify, or suspend
11 a public weigher's [~~person's~~] certificate, the public weigher
12 [~~person~~] is entitled to a hearing conducted under Section 12.032.
13 The decision of the department is appealable in the same manner as
14 provided for contested cases under Chapter 2001, Government Code.

15 SECTION 5.04. Section 13.256, Agriculture Code, is amended
16 to read as follows:

17 Sec. 13.256. BOND. [~~(a)~~] Each [~~county public weigher,~~
18 ~~whether elected or appointed, and each deputy~~] public weigher shall
19 execute [~~for the full term of office~~] a bond in accordance with
20 rules adopted [~~that is in the amount of \$2,500, approved~~] by the
21 department [~~, and made payable to the county judge of the county for~~
22 ~~which the weigher is elected or appointed~~]. The bond must be
23 conditioned on the accurate weight or measure of a commodity being
24 reflected on the certificate issued by the public weigher [~~or~~
25 ~~deputy~~], on the protection of a commodity that the public weigher
26 [~~or deputy~~] is requested to weigh or measure, and on compliance with
27 all laws and rules governing public weighers. [~~The bond shall be~~

1 ~~filed with the county clerk's office in the county for which the~~
2 ~~public weigher or deputy is appointed or elected.]~~ The bond is not
3 void on first recovery. A person injured by the public weigher may
4 sue on the bond.

5 ~~[(b) Each state public weigher shall execute a bond similar~~
6 ~~to the bond required under Subsection (a) of this section, except~~
7 ~~that the bond is for \$10,000, made payable to the State of Texas,~~
8 ~~and filed with the department.]~~

9 SECTION 5.05. Section 13.257(a), Agriculture Code, is
10 amended to read as follows:

11 (a) On each certificate of weight or measure that a public
12 weigher [~~or deputy public weigher~~] issues, the public weigher [~~or~~
13 ~~deputy public weigher~~] shall include the:

14 (1) time and date that the weight or measurement was
15 taken;

16 (2) signature and license number of the public weigher
17 [~~or deputy public weigher~~]; and

18 (3) seal of the department.

19 SECTION 5.06. Section 13.259(a), Agriculture Code, is
20 amended to read as follows:

21 (a) A public weigher [~~or deputy public weigher~~] who
22 intentionally or knowingly issues a certificate of weight or
23 measure giving a false weight or measure for a commodity weighed or
24 measured commits an offense.

25 SECTION 5.07. Section 13.261, Agriculture Code, is amended
26 to read as follows:

27 Sec. 13.261. [~~POWER OF DEPARTMENT,~~] RULES. The department

1 shall [~~may~~] adopt rules governing the bond requirements and
2 [~~procedures to be followed in administering the~~] fees imposed under
3 this subchapter.

4 SECTION 5.08. Section 52.038, Agriculture Code, is amended
5 to read as follows:

6 Sec. 52.038. EXISTING CORPORATIONS AND ASSOCIATIONS. [~~(a)~~]
7 Any corporation or association organized under prior law before
8 March 1, 1921, may elect, by a majority vote of its members or
9 stockholders, to adopt this chapter and become subject to it by:

10 (1) adopting the restrictions provided by this
11 chapter; and

12 (2) executing, in duplicate on forms supplied by the
13 secretary of state, an instrument, signed and acknowledged by its
14 directors, stating that the entity, by a majority vote of its
15 members or stockholders, has decided to accept the benefits of and
16 be bound by this chapter [~~, and~~

17 [~~(3) filing articles of incorporation in accordance~~
18 ~~with the requirements of Section 52.035 of this code except that the~~
19 ~~entity's directors shall sign the articles]~~.

20 [~~(b) The filing fee for the articles filed under Subsection~~
21 ~~(a) of this section is equal to the filing fee for an amendment to~~
22 ~~the articles of incorporation as provided by Section 52.151 of this~~
23 ~~code.]~~

24 SECTION 5.09. Section 52.151, Agriculture Code, is amended
25 to read as follows:

26 Sec. 52.151. TAX EXEMPTIONS [~~FEES~~]. [~~(a) The fee for~~
27 ~~filing articles of incorporation under this chapter is \$10.~~

1 ~~[(b) The fee for filing an amendment to the articles of~~
2 ~~incorporation under this chapter is \$2.50.~~

3 ~~[(c) Each marketing association shall pay to the department~~
4 ~~an annual license fee, as provided by department rule.]~~ A marketing
5 association is exempt from all ~~[other]~~ franchise or license taxes,
6 except that a marketing association is exempt from the franchise
7 tax imposed by Chapter 171, Tax Code, only if exempted by that
8 chapter.

9 SECTION 5.10. Section 101.003(b), Agriculture Code, is
10 amended to read as follows:

11 (b) This section does not apply to:

12 (1) a retailer, unless the retailer:

13 (A) has annual sales of perishable commodities
14 that comprise 50 percent or more of the retailer's total sales; or

15 (B) employs a buying agent who buys directly from
16 a producer;

17 (2) a producer who handles or deals exclusively in the
18 producer's own products;

19 (3) a person shipping less than six standard boxes of
20 citrus fruit in any one separate shipment; ~~[or]~~

21 (4) a person who ships a noncommercial shipment of
22 perishable commodities; or

23 (5) a person who purchases perishable commodities and
24 pays for the perishable commodities in United States currency
25 before or at the time of delivery or taking possession.

26 SECTION 5.11. Section 101.004, Agriculture Code, is amended
27 to read as follows:

1 Sec. 101.004. LICENSE OR REGISTRATION CATEGORIES. [~~(a)~~] A
2 person shall apply for a license if the person:

3 (1) purchases perishable commodities on credit;

4 (2) takes possession of perishable commodities for
5 consignment or handling on behalf of the producer or owner of the
6 perishable commodities; or

7 (3) takes possession of perishable commodities for
8 consignment or handling in a manner or under a contract that does
9 not require or result in payment to the producer, seller, or
10 consignor of the full amount of the purchase price in United States
11 currency at the time of delivery or at the time that the perishable
12 commodities pass from the producer, seller, or consignor to the
13 person.

14 ~~[(b) A person shall register as a cash dealer if the person
15 purchases perishable commodities and pays for the perishable
16 commodities in United States currency before or at the time of
17 delivery or taking possession.]~~

18 SECTION 5.12. Section 103.008(b), Agriculture Code, is
19 amended to read as follows:

20 (b) The total payment of all claims arising from the same
21 contract with a license holder may not exceed \$50,000 [~~\$35,000~~].

22 SECTION 5.13. Section 121.005(a), Agriculture Code, is
23 amended to read as follows:

24 (a) Each rose plant or shipment of rose plants shall be
25 labeled with~~+~~

26 ~~[(1)]~~ the proper grade~~[, and~~

27 ~~[(2) the number of the certificate of authority of the~~

1 ~~person selling or offering for sale the plant or shipment].~~

2 SECTION 5.14. Section 52.092(f), Election Code, is amended
3 to read as follows:

4 (f) Precinct offices shall be listed in the following order:

- 5 (1) county commissioner;
- 6 (2) justice of the peace;
- 7 (3) constable[+;
- 8 [~~(4) public weigher].~~

9 SECTION 5.15. Section 172.024(a), Election Code, is amended
10 to read as follows:

11 (a) The filing fee for a candidate for nomination in the
12 general primary election is as follows:

- 13 (1) United States senator \$5,000
- 14 (2) office elected statewide, except United States
15 senator 3,750
- 16 (3) United States representative 3,125
- 17 (4) state senator 1,250
- 18 (5) state representative 750
- 19 (6) member, State Board of Education 300
- 20 (7) chief justice or justice, court of appeals, other
21 than a justice specified by Subdivision (8) 1,875
- 22 (8) chief justice or justice of a court of appeals that
23 serves a court of appeals district in which a county with a
24 population of more than 750,000 is wholly or partly
25 situated 2,500

26 (9) district judge or judge specified by Section
27 52.092(d) for which this schedule does not otherwise prescribe a

1	fee	1,500
2	(10) district or criminal district judge of a court in	
3	a judicial district wholly contained in a county with a population	
4	of more than 850,000	2,500
5	(11) judge, statutory county court, other than a judge	
6	specified by Subdivision (12)	1,500
7	(12) judge of a statutory county court in a county with	
8	a population of more than 850,000	2,500
9	(13) district attorney, criminal district attorney,	
10	or county attorney performing the duties of a district	
11	attorney	1,250
12	(14) county commissioner, district clerk, county	
13	clerk, sheriff, county tax assessor-collector, county treasurer,	
14	or judge, constitutional county court:	
15	(A) county with a population of 200,000	
16	or more	1,250
17	(B) county with a population of under	
18	200,000	750
19	(15) justice of the peace or constable:	
20	(A) county with a population of 200,000	
21	or more	1,000
22	(B) county with a population of under	
23	200,000	375
24	(16) county surveyor <u>or</u> [7] inspector of hides and	
25	animals [7 or public weigher]	75
26	(17) office of the county government for which this	
27	schedule does not otherwise prescribe a fee	750

1 SECTION 5.16. Section 62.160(b), Labor Code, is amended to
2 read as follows:

3 (b) Sections 62.051-62.054 [~~and Subchapter C~~] do not apply
4 to an agricultural employer with respect to an employee engaged in
5 the production of livestock.

6 SECTION 5.17. The following statutes are repealed:

- 7 (1) Section 13.252, Agriculture Code;
- 8 (2) Section 13.253, Agriculture Code;
- 9 (3) Section 13.2535, Agriculture Code;
- 10 (4) Section 13.254, Agriculture Code;
- 11 (5) Section 52.035(b), Agriculture Code;
- 12 (6) Section 52.152, Agriculture Code;
- 13 (7) Sections 103.008(a) and (c), Agriculture Code;
- 14 (8) Section 121.004, Agriculture Code;
- 15 (9) Section 62.002(1), Labor Code; and
- 16 (10) Subchapter C, Chapter 62, Labor Code.

17 SECTION 5.18. (a) The changes in law made by this Act to
18 Subchapter E, Chapter 13, Agriculture Code, do not affect the
19 entitlement of a public weigher or deputy public weigher elected or
20 appointed before the effective date of this Act to serve as a public
21 weigher or deputy public weigher for the remainder of the public
22 weigher's or deputy public weigher's term. A public weigher or
23 deputy public weigher elected or appointed before the effective
24 date of this Act is governed by the law in effect immediately before
25 the effective date of this Act, and the former law is continued in
26 effect for that purpose.

27 (b) The changes in law made by this Act to Section 103.008,

1 Agriculture Code, apply only to a claim for payment filed on or
 2 after the effective date of this Act. A claim filed before that
 3 date is governed by the law in effect on the date the claim was
 4 filed, and the former law is continued in effect for that purpose.

5 ARTICLE 6. GENERAL LICENSING PROVISIONS

6 SECTION 6.01. Sections 12.020(a) and (c), Agriculture Code,
 7 are amended to read as follows:

8 (a) If a person violates a provision of law [~~this code~~]
 9 described by Subsection (c) [~~of this section~~] or a rule or order
 10 adopted by the department under a provision of law [~~this code~~]
 11 described by Subsection (c) [~~of this section~~], the department may
 12 assess an administrative penalty against the person as provided by
 13 this section.

14 (c) The provisions of law [~~this code~~] subject to this
 15 section and the applicable penalty amounts are as follows:

Provision	Amount of Penalty
17 Chapter 41	<u>not more than \$5,000</u> [\$1,000]
18 Chapters 13, 14A, 18, 46, 61, 94, 19 95, 101, 102, 103, 121, 125, 132, 20 and 134	not more than <u>\$5,000</u> [\$500]
21 Subchapter B, Chapter 71	
22 Chapter 19	
23 Chapter 76	not more than <u>\$5,000</u> [\$2,000]
24 Subchapters A and C, Chapter 71	
25 Chapters 72, 73, and 74	not more than \$5,000
26 Chapter 14	not more than \$10,000
27 <u>Chapter 1951, Occupations Code</u>	<u>not more than \$5,000</u>

1 Chapter 153, Natural Resources

2 Code not more than \$5,000.

3 SECTION 6.02. Section 12.023, Agriculture Code, is amended
4 to read as follows:

5 Sec. 12.023. EXPIRATION OF REGISTRATION OR LICENSES. The
6 department by rule shall [~~may~~] adopt a system under which
7 registrations or licenses required by the department expire on
8 various dates during the year. For the year in which the
9 registration or license expiration date is changed, registration or
10 license fees shall be prorated on a monthly basis so that each
11 registrant or licensee pays only that portion of the fee that is
12 allocable to the number of months during which the registration or
13 license is valid. On renewal of the registration or license on the
14 new expiration date, the total renewal fee is payable.

15 SECTION 6.03. Title 2, Agriculture Code, is amended by
16 adding Chapter 12A to read as follows:

17 CHAPTER 12A. GENERAL LICENSING PROVISIONS

18 SUBCHAPTER A. POWERS AND DUTIES OF DEPARTMENT RELATED TO LICENSING

19 Sec. 12A.001. APPLICABILITY OF PROVISIONS. The general
20 licensing, regulatory, and enforcement provisions of Chapter 12 and
21 this chapter apply to licensing and regulatory programs
22 administered by the department under any law.

23 Sec. 12A.002. CEASE AND DESIST ORDER. (a) If it appears to
24 the commissioner that a person who is not licensed by the department
25 is violating a statute or rule that requires the person to hold a
26 license issued by the department or a statute or rule relating to an
27 activity regulated by the department, the commissioner after notice

1 and opportunity for a hearing may issue a cease and desist order
2 prohibiting the person from engaging in the activity.

3 (b) A violation of an order under this section constitutes
4 grounds for imposing an administrative penalty.

5 Sec. 12A.003. RISK-BASED INSPECTIONS. For each person
6 licensed or regulated by the department that the department may
7 inspect:

8 (1) the department may conduct additional inspections
9 based on a schedule of risk-based inspections using the following
10 criteria:

11 (A) the type and nature of the person;

12 (B) whether there has been a prior violation by
13 the person;

14 (C) the inspection history of the person;

15 (D) any history of complaints involving the
16 person; and

17 (E) any other factor determined by the department
18 by rule; and

19 (2) the department may waive the inspection
20 requirement on a case-by-case basis if an emergency arises or to
21 accommodate complaint investigation schedules.

22 [Sections 12A.004-12A.050 reserved for expansion]

23 SUBCHAPTER B. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES

24 Sec. 12A.051. INFORMATION REGARDING COMPLAINTS AND
25 ENFORCEMENT PROCESS. (a) The department shall:

26 (1) inform applicants, license holders, and the public
27 on the department's Internet website, in department brochures, and

1 on any other available information resource about the department's
2 enforcement process, including each step in the complaint
3 investigation and resolution process, from initial filing through
4 final appeal, and the opportunity to request an informal settlement
5 conference; and

6 (2) inform license holders that a license holder may
7 obtain information about a complaint made against the license
8 holder and may obtain on request a copy of the complaint file.

9 (b) The department shall provide to a license holder against
10 whom a complaint has been filed:

11 (1) the allegations made against the license holder in
12 the complaint; and

13 (2) on the license holder's request, any information
14 obtained by the department in its investigation of the complaint.

15 (c) The department shall provide the information required
16 under Subsection (b) in a timely manner to allow the license holder
17 time to respond to the complaint.

18 Sec. 12A.052. COMPLAINT AND VIOLATION ANALYSIS. The
19 department shall analyze complaints filed with and violations
20 discovered by the department to identify any trends or issues
21 related to certain violations, including:

22 (1) the reason for each complaint or violation;

23 (2) how each complaint or violation was resolved; and

24 (3) the subject matter of each complaint or violation
25 that was not within the jurisdiction of the department and how the
26 department responded to the complaint or violation.

27 [Sections 12A.053-12A.100 reserved for expansion]

1 SUBCHAPTER C. ISSUANCE AND RENEWAL OF LICENSES

2 Sec. 12A.101. REPLACEMENT LICENSE; FEE. The department
3 shall issue to a license holder whose license has been lost or
4 destroyed or whose name has been changed a replacement license if
5 the license holder submits to the department:

6 (1) an appropriate application; and

7 (2) a fee in an amount established by department rule.

8 [Sections 12A.102-12A.150 reserved for expansion]

9 SUBCHAPTER D. EXAMINATIONS

10 Sec. 12A.151. EXAMINATION PROCEDURES. For each licensing
11 examination administered by the department, the department shall:

12 (1) adopt policies and guidelines detailing the
13 procedures for the testing process, including test admission and
14 internal test administration procedures; and

15 (2) post on the department's Internet website the
16 policies that reference the testing procedures.

17 Sec. 12A.152. EVALUATION OF EXAMINATION QUESTIONS. For
18 each licensing examination administered by the department, the
19 department shall periodically evaluate the effectiveness of
20 examination questions in objectively assessing an applicant's
21 knowledge.

22 [Sections 12A.153-12A.200 reserved for expansion]

23 SUBCHAPTER E. PENALTIES AND ENFORCEMENT PROCEDURES

24 Sec. 12A.201. INFORMAL PROCEEDINGS. (a) The department by
25 rule shall adopt procedures governing:

26 (1) informal disposition of a contested case under
27 Section 2001.056, Government Code; and

1 (2) an informal proceeding held in compliance with
2 Section 2001.054, Government Code.

3 (b) The department shall offer the opportunity to conduct an
4 informal settlement conference by telephone.

5 (c) The department shall:

6 (1) provide a license holder sufficient opportunity to
7 indicate whether the terms of a proposed order are acceptable to the
8 license holder;

9 (2) indicate in the notice of violation that the
10 license holder has the opportunity described by Subdivision (1);
11 and

12 (3) allow a license holder who does not agree with a
13 proposed order to request an informal settlement conference.

14 SECTION 6.04. The heading to Section 76.113, Agriculture
15 Code, is amended to read as follows:

16 Sec. 76.113. TERM [~~EXPIRATION~~] AND RENEWAL OF LICENSES.

17 SECTION 6.05. Sections 76.113(a) and (b), Agriculture Code,
18 are amended to read as follows:

19 (a) Each commercial applicator or noncommercial applicator
20 license is valid for one year [~~expires on the first anniversary of~~
21 ~~the date on which it was issued or renewed~~].

22 (b) Each private applicator license is valid for five years
23 [~~expires on the fifth anniversary of the date on which it was issued~~
24 ~~or renewed~~].

25 SECTION 6.06. Section 76.151, Agriculture Code, is amended
26 by amending Subsection (a) and adding Subsection (a-1) to read as
27 follows:

1 (a) The [~~For the purpose of inspection, examination, or~~
2 ~~sampling, the~~] department, at any time and without notice during
3 regular business hours, may:

4 (1) [~~is entitled to~~] enter and inspect a [~~at~~
5 ~~reasonable hours any~~] building or place owned, controlled, or
6 operated by a person engaged in any activity regulated under this
7 chapter or Chapter 1951, Occupations Code; and

8 (2) inspect and review any record maintained by a
9 person engaged in any activity regulated under this chapter or
10 Chapter 1951, Occupations Code [~~registrant or dealer if from~~
11 ~~probable cause it appears that the building or place contains a~~
12 ~~pesticide~~].

13 (a-1) The department may enter and inspect a building or
14 place or inspect and review any record under Subsection (a) as
15 necessary to:

16 (1) ensure compliance with this chapter or Chapter
17 1951, Occupations Code; or

18 (2) investigate a complaint made to the department.

19 SECTION 6.07. Section 76.1555(a), Agriculture Code, is
20 amended to read as follows:

21 (a) If a person violates a provision of this chapter or
22 Chapter 1951, Occupations Code, or a rule or order adopted by the
23 department under this chapter or Chapter 1951, Occupations Code,
24 the department may assess an administrative penalty against the
25 person as provided by Section 12.020, except that the penalty for
26 each violation may [~~shall~~] not exceed \$5,000 [~~\$4,000 for all~~
27 ~~violations related to a single incident~~]. Each day a violation

1 continues or occurs may be considered a separate violation for
2 purposes of penalty assessment.

3 SECTION 6.08. Section 132.024, Agriculture Code, is amended
4 to read as follows:

5 Sec. 132.024. LICENSE TERM [~~EXPIRATION~~]. A license issued
6 or renewed under this chapter is valid for one year [~~expires on the~~
7 ~~first anniversary of the date of issuance or renewal~~].

8 SECTION 6.09. The changes in law made by this article to
9 Sections 12.020(c) and 76.1555(a), Agriculture Code, apply only to
10 a violation committed on or after the effective date of this Act. A
11 violation committed before the effective date of this Act is
12 governed by the law in effect on the date the violation occurred,
13 and the former law is continued in effect for that purpose.

14 ARTICLE 7. STRUCTURAL PEST CONTROL

15 SECTION 7.01. Section 12.0201, Agriculture Code, is amended
16 to read as follows:

17 Sec. 12.0201. LICENSE SANCTIONS. (a) In addition to other
18 sanctions provided by law, the department may revoke, modify,
19 suspend, or refuse to issue or renew a license, assess an
20 administrative penalty, place on probation a person whose license
21 has been suspended, or reprimand a license holder if the department
22 finds that the practitioner:

23 (1) violated a provision of this code or Chapter 1951,
24 Occupations Code;

25 (2) violated a rule adopted by the department under
26 this code or Chapter 1951, Occupations Code; or

27 (3) after appropriate notice, failed to comply with an

1 order of the department.

2 (b) In addition to any other actions permitted under this
3 code or Chapter 1951, Occupations Code, if a license suspension is
4 probated, the department may require the practitioner:

5 (1) to maintain additional information in the
6 practitioner's records;

7 (2) to report regularly to the department on matters
8 that are the basis of the probation;

9 (3) to limit practice to the areas prescribed by the
10 department; or

11 (4) to continue or review professional education until
12 the practitioner attains a degree of skill satisfactory to the
13 department in those areas that are the basis of the probation.

14 SECTION 7.02. Subchapter A, Chapter 1951, Occupations Code,
15 is amended by adding Section 1951.007 to read as follows:

16 Sec. 1951.007. APPLICABILITY OF AGRICULTURE CODE LICENSING
17 PROVISIONS. A provision of the Agriculture Code that applies
18 generally to licensing or regulatory programs administered by the
19 department, including a provision that refers generally to
20 licensing or regulatory programs under the Agriculture Code,
21 applies to this chapter.

22 SECTION 7.03. Section 1951.207(a), Occupations Code, is
23 amended to read as follows:

24 (a) The department by rule shall adopt a policy that[+]

25 [~~1~~] requires a business holding a structural pest
26 control business license to be inspected by a field inspector at
27 least once:

1 (1) ~~[(A)]~~ in the business's first year of operation;

2 and

3 (2) ~~[(B)]~~ every four years after the first year of

4 operation~~+~~

5 ~~[(2) provides for additional inspections based on a~~
6 ~~schedule of risk-based inspections using the following criteria:~~

7 ~~[(A) the type and nature of the business;~~

8 ~~[(B) whether there has been a prior violation by~~
9 ~~the business;~~

10 ~~[(C) the inspection history of the business;~~

11 ~~[(D) any history of complaints involving the~~
12 ~~business; and~~

13 ~~[(E) any other factor determined by the~~
14 ~~department by rule; and~~

15 ~~[(3) provides that the department may waive the~~
16 ~~inspection requirement on a case-by-case basis if an emergency~~
17 ~~arises or to accommodate complaint investigation schedules].~~

18 SECTION 7.04. The following provisions of the Occupations
19 Code are repealed:

20 (1) Section 1951.310;

21 (2) Section 1951.311;

22 (3) Sections 1951.501(c) and (d);

23 (4) Subchapter L, Chapter 1951;

24 (5) Section 1951.604; and

25 (6) Section 1951.605.

26 SECTION 7.05. The changes in law made by this Act by the
27 repeal of Sections 1951.501(c) and (d), Occupations Code, apply

1 only to a violation of Chapter 1951, Occupations Code, committed on
2 or after the effective date of this Act. A violation committed
3 before the effective date of this Act is governed by the law in
4 effect on the date the violation occurred, and the former law is
5 continued in effect for that purpose. A violation committed on or
6 after the effective date of this Act is governed by Section 12.0201,
7 Agriculture Code, as amended by this Act, and other applicable law.

8 SECTION 7.06. The change in law made by this Act by the
9 repeal of Section 1951.310, Occupations Code, applies only to the
10 renewal of a license under Chapter 1951, Occupations Code, that
11 expires on or after the effective date of this Act. The renewal of a
12 license that expires before the effective date of this Act is
13 governed by the law in effect on the date the license expired, and
14 the former law is continued in effect for that purpose. An
15 application submitted on or after the effective date of this Act is
16 governed by Section 12.024, Agriculture Code, and other applicable
17 law.

18 SECTION 7.07. The change in law made by this Act by the
19 repeal of Section 1951.311, Occupations Code, applies only to an
20 application for a replacement license issued under Chapter 1951,
21 Occupations Code, submitted on or after the effective date of this
22 Act. An application submitted before the effective date of this Act
23 is governed by the law in effect on the date the application was
24 submitted, and the former law is continued in effect for that
25 purpose. An application submitted on or after the effective date of
26 this Act is governed by Section 12A.101, Agriculture Code, as added
27 by this Act, and other applicable law.

1 SECTION 7.08. The change in law made by this Act by the
2 repeal of Subchapter L, Chapter 1951, Occupations Code, applies
3 only to a violation committed on or after the effective date of this
4 Act. A violation committed before that date is governed by the law
5 in effect on the date the violation occurred, and the former law is
6 continued in effect for that purpose. A violation committed on or
7 after the effective date of this Act is governed by Section 12.020,
8 Agriculture Code, as amended by this Act, and other applicable law.

9 ARTICLE 8. SUNSET DATE AND ACROSS-THE-BOARD RECOMMENDATIONS

10 SECTION 8.01. Section 11.003, Agriculture Code, is amended
11 to read as follows:

12 Sec. 11.003. SUNSET PROVISION. The Department of
13 Agriculture is subject to Chapter 325, Government Code (Texas
14 Sunset Act). Unless continued in existence as provided by that
15 chapter, the department is abolished September 1, 2021 [~~2009~~].

16 SECTION 8.02. Section 12.0135, Agriculture Code, is amended
17 to read as follows:

18 Sec. 12.0135. CONFLICT PROVISIONS. (a) A person may not be
19 a department employee employed in a "bona fide executive,
20 administrative, or professional capacity," as that phrase is used
21 for purposes of establishing an exemption to the overtime
22 provisions of the federal Fair Labor Standards Act of 1938 (29
23 U.S.C. Section 201 et seq.), if:

24 (1) the person is an officer, employee, or paid
25 consultant of a Texas trade association in the field of
26 agriculture; or

27 (2) the person's spouse is an officer, manager, or paid

1 consultant of a Texas trade association in the field of
2 agriculture.

3 (b) A person may not act as the general counsel to the
4 commissioner or the department if the person is required to
5 register as a lobbyist under Chapter 305, Government Code, because
6 of the person's activities for compensation on behalf of a
7 profession related to the operation of the department.

8 (c) ~~In [(b) An officer, employee, or paid consultant of a~~
9 ~~statewide Texas trade association or an affiliate of a national~~
10 ~~trade association in the field of agriculture may not be an employee~~
11 ~~of the department who is exempt from the state's position~~
12 ~~classification plan or is compensated at or above the amount~~
13 ~~prescribed by the General Appropriations Act for step 1, salary~~
14 ~~group 17, of the position classification salary schedule.~~

15 ~~[(c) A person who is the spouse of an officer, manager, or~~
16 ~~paid consultant of a statewide Texas trade association or an~~
17 ~~affiliate of a national trade association in the field of~~
18 ~~agriculture may not be an employee of the department who is exempt~~
19 ~~from the state's position classification plan or is compensated at~~
20 ~~or above the amount prescribed by the General Appropriations Act~~
21 ~~for step 1, salary group 17, of the position classification salary~~
22 ~~schedule.~~

23 ~~[(d) For the purposes of]~~ this section, "Texas [a] trade
24 association" means ~~[is]~~ a ~~[nonprofit,]~~ cooperative ~~[7]~~ and
25 voluntarily joined statewide association of business or
26 professional competitors in this state designed to assist its
27 members and its industry or profession in dealing with mutual

1 business or professional problems and in promoting their common
2 interest.

3 SECTION 8.03. Chapter 12, Agriculture Code, is amended by
4 adding Section 12.0203 to read as follows:

5 Sec. 12.0203. NEGOTIATED RULEMAKING AND ALTERNATIVE
6 DISPUTE RESOLUTION. (a) The commissioner shall develop and
7 implement a policy to encourage the use of:

8 (1) negotiated rulemaking procedures under Chapter
9 2008, Government Code, for the adoption of department rules; and

10 (2) appropriate alternative dispute resolution
11 procedures under Chapter 2009, Government Code, to assist in the
12 resolution of internal and external disputes under the department's
13 jurisdiction.

14 (b) The department's procedures relating to alternative
15 dispute resolution must conform, to the extent possible, to any
16 model guidelines issued by the State Office of Administrative
17 Hearings for the use of alternative dispute resolution by state
18 agencies.

19 (c) The commissioner shall designate a trained person to:

20 (1) coordinate the implementation of the policy
21 adopted under Subsection (a);

22 (2) serve as a resource for any training needed to
23 implement the procedures for negotiated rulemaking or alternative
24 dispute resolution; and

25 (3) collect data concerning the effectiveness of those
26 procedures, as implemented by the department.

27 SECTION 8.04. Chapter 12, Agriculture Code, is amended by

1 adding Section 12.047 to read as follows:

2 Sec. 12.047. USE OF TECHNOLOGY. The commissioner shall
3 implement a policy requiring the department to use appropriate
4 technological solutions to improve the department's ability to
5 perform its functions. The policy must ensure that the public is
6 able to interact with the department on the Internet.

7 ARTICLE 9. EFFECTIVE DATE

8 SECTION 9.01. This Act takes effect September 1, 2009.