

By: Deuell

S.B. No. 1009

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Commission on Jail Standards.

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

SECTION 1. Section 511.003, Government Code, is amended to read as follows:

Sec. 511.003. SUNSET PROVISION. The Commission on Jail Standards is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2021 [~~2009~~].

SECTION 2. Subsections (g), (h), (i), and (j), Section 511.004, Government Code, are amended to read as follows:

(g) A person is not eligible for appointment as a public member of the commission if the person or the person's spouse:

(1) is registered, certified, or licensed by a an [~~an occupational~~] regulatory agency in the field of law enforcement;

(2) is employed by or participates in the management of a business entity, county jail, or other organization regulated by the commission or receiving funds from the commission;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the commission or receiving funds from the commission; or

(4) uses or receives a substantial amount of tangible

1 goods, services, or funds from the commission, other than  
2 compensation or reimbursement authorized by law for commission  
3 membership, attendance, or expenses.

4 (h) A person who is appointed to and qualifies for ~~[To be~~  
5 ~~eligible to take]~~ office as a member of the commission may not vote,  
6 deliberate, or be counted as a member in attendance at a meeting of  
7 the commission until the ~~[, a]~~ person completes ~~[appointed to the~~  
8 ~~commission must complete at least one course of]~~ a training program  
9 that complies with Subsection (i).

10 (i) The training program required by Subsection (h) must  
11 provide information to the person regarding:

12 (1) this chapter ~~[the enabling legislation that~~  
13 ~~created the commission];~~

14 (2) the programs, functions, rules, and budget of  
15 ~~[operated by]~~ the commission;

16 (3) the results of the most recent formal audit ~~[role~~  
17 ~~and functions]~~ of the commission;

18 (4) the requirements of laws relating to open  
19 meetings, public information, administrative procedure, and  
20 conflicts of interest ~~[rules of the commission with an emphasis on~~  
21 ~~the rules that relate to disciplinary and investigatory authority];~~  
22 and

23 (5) ~~[the current budget for the commission,~~

24 ~~[(6) the results of the most recent formal audit of the~~  
25 ~~commission,~~

26 ~~[(7) the requirements of the:~~

27 ~~[(A) open meetings law, Chapter 551,~~

1                   ~~[(B) open records law, Chapter 552; and~~  
2                   ~~[(C) administrative procedure law, Chapter 2001;~~  
3                   ~~[(8) the requirements of the conflict of interests~~  
4 ~~laws and other laws relating to public officials; and~~  
5                   ~~[(9)]~~ any applicable ethics policies adopted by the  
6 commission or the Texas Ethics Commission.

7           (j) A person appointed to the commission is entitled to  
8 reimbursement, ~~[for travel expenses incurred in attending the~~  
9 ~~training program required by Subsection (h)]~~ as provided by the  
10 General Appropriations Act, for travel expenses incurred in  
11 attending the training program required by Subsection (h),  
12 regardless of whether attendance at the program occurs before or  
13 after [and as if] the person qualifies for office [were a member of  
14 ~~the commission].~~

15           SECTION 3. Subsection (a), Section 511.0041, Government  
16 Code, is amended to read as follows:

17           (a) It is a ground for removal from the commission if a  
18 member:

19                   (1) does not have at the time of taking office  
20 ~~[appointment]~~ the qualifications required by Section 511.004;

21                   (2) does not maintain during service on the commission  
22 the qualifications required by Section 511.004;

23                   (3) is ineligible for membership under ~~[violates a~~  
24 ~~prohibition established by]~~ Section 511.004(g) or 511.0042;

25                   (4) cannot discharge the member's duties for a  
26 substantial part of the term for which the member is appointed  
27 because of illness or disability; or

1           (5) is absent from more than half of the regularly  
2 scheduled commission meetings that the member is eligible to attend  
3 during a calendar year without an excuse approved [~~unless the~~  
4 ~~absence is excused~~] by a majority vote of the commission.

5           SECTION 4. Section 511.0042, Government Code, is amended to  
6 read as follows:

7           Sec. 511.0042. CONFLICT OF INTEREST. (a) A person may not  
8 be a member of the commission and may not be a commission employee  
9 employed in a "bona fide executive, administrative, or professional  
10 capacity," as that phrase is used for purposes of establishing an  
11 exemption to the overtime provisions of the federal Fair Labor  
12 Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

13                 (1) the person is an [~~An~~] officer, employee, or paid  
14 consultant of a Texas trade association in the field of county  
15 corrections; or

16                 (2) the person's [~~may not be a member of the commission~~  
17 ~~or an employee of the commission who is exempt from the state's~~  
18 ~~position classification plan or is compensated at or above the~~  
19 ~~amount prescribed by the General Appropriations Act for step 1,~~  
20 ~~salary group 17, of the position classification salary schedule.~~

21           [~~(b) A person who is the~~] spouse is [~~of~~] an officer,  
22 manager, or paid consultant of a Texas trade association in the  
23 field of county corrections [~~may not be a commission member and may~~  
24 ~~not be a commission employee who is exempt from the state's position~~  
25 ~~classification plan or is compensated at or above the amount~~  
26 ~~prescribed by the General Appropriations Act for step 1, salary~~  
27 ~~group 17, of the position classification salary schedule].~~

1           **(b)** In [~~(c) For the purposes of~~] this section, "Texas  
2 trade association" means [~~a Texas trade association is~~] a  
3 [~~nonprofit,~~] cooperative[~~,~~] and voluntarily joined statewide  
4 association of business or professional competitors in this state  
5 designed to assist its members and its industry or profession in  
6 dealing with mutual business or professional problems and in  
7 promoting their common interest.

8           **(c)** [~~(d)~~] A person may not be [~~serve as~~] a member of the  
9 commission or act as the general counsel to the commission if the  
10 person is required to register as a lobbyist under Chapter 305  
11 because of the person's activities for compensation on behalf of a  
12 profession related to the operation of the commission.

13           SECTION 5. Chapter 511, Government Code, is amended by  
14 adding Section 511.0061 to read as follows:

15           Sec. 511.0061. USE OF TECHNOLOGY. The commission shall  
16 implement a policy requiring the commission to use appropriate  
17 technological solutions to improve the commission's ability to  
18 perform its functions. The policy must ensure that the public is  
19 able to interact with the commission on the Internet.

20           SECTION 6. Section 511.0071, Government Code, is amended by  
21 amending Subsections (a), (d), (e), and (f) and adding Subsection  
22 (a-1) to read as follows:

23           (a) The commission shall prepare information of public  
24 interest describing the functions of the commission and the  
25 commission's procedures by which complaints regarding the  
26 commission and complaints regarding jails under the commission's  
27 jurisdiction are filed with and resolved by the commission. The

1 commission shall make the information available:

2 (1) to the public, inmates, county officials, and  
3 appropriate state agencies; and

4 (2) on any publicly accessible Internet website  
5 maintained by the commission.

6 (a-1) The commission shall adopt rules and procedures  
7 regarding the receipt, investigation, resolution, and disclosure  
8 to the public of complaints regarding the commission and complaints  
9 regarding jails under the commission's jurisdiction that are filed  
10 with the commission. The commission shall:

11 (1) prescribe a form or forms on which written  
12 complaints regarding the commission and complaints regarding jails  
13 under the commission's jurisdiction may be filed with the  
14 commission;

15 (2) keep an information file in accordance with  
16 Subsection (f) regarding each complaint filed with the commission  
17 regarding the commission or a jail under the commission's  
18 jurisdiction;

19 (3) develop procedures for prioritizing complaints  
20 filed with the commission and a reasonable time frame for  
21 responding to those complaints;

22 (4) maintain a system for promptly and efficiently  
23 acting on complaints filed with the commission;

24 (5) develop a procedure for tracking and analyzing all  
25 complaints filed with the commission, according to criteria that  
26 must include:

27 (A) the reason for or origin of complaints;

1           (B) the average number of days that elapse  
2 between the date on which complaints are filed, the date on which  
3 the commission first investigates or otherwise responds to  
4 complaints, and the date on which complaints are resolved;

5           (C) the outcome of investigations or the  
6 resolution of complaints, including dismissals and commission  
7 actions resulting from complaints;

8           (D) the number of pending complaints at the close  
9 of each fiscal year; and

10           (E) a list of complaint topics that the  
11 commission does not have jurisdiction to investigate or resolve;  
12 and

13           (6) regularly prepare and distribute to members of the  
14 commission a report containing a summary of the information  
15 compiled under Subdivision (5).

16           (d) ~~[The commission shall keep an information file about~~  
17 ~~each complaint filed with the commission that the commission has~~  
18 ~~authority to resolve. The commission is not required to keep an~~  
19 ~~information file about a complaint to the commission from or~~  
20 ~~related to a prisoner of a county or municipal jail.]~~ The  
21 commission shall adopt rules and procedures regarding the referral  
22 of [refer] a complaint filed with the commission from or related to  
23 a prisoner to the appropriate local agency for investigation and  
24 resolution. The commission ~~[and]~~ may perform a special inspection  
25 of a facility named in the complaint to determine compliance with  
26 commission requirements.

27           (e) If a written complaint is filed with the commission that

1 the commission has authority to resolve, the commission at least  
2 quarterly and until final disposition of the complaint shall notify  
3 the parties to the complaint of the status of the complaint, unless  
4 the notice would jeopardize an undercover investigation. This  
5 subsection does not apply to a complaint referred to a local agency  
6 under Subsection (d).

7 (f) The commission shall collect and maintain information  
8 about each complaint received by the commission regarding the  
9 commission or a jail under the commission's jurisdiction,  
10 including:

- 11 (1) the date the complaint is received;
- 12 (2) the name of the complainant;
- 13 (3) the subject matter of the complaint;
- 14 (4) a record of all persons contacted in relation to  
15 the complaint;
- 16 (5) a summary of the results of the review or  
17 investigation of the complaint; and
- 18 (6) for a complaint for which the agency took no  
19 action, an explanation of the reason the complaint was closed  
20 without action.

21 SECTION 7. Subsection (e), Section 511.008, Government  
22 Code, is amended to read as follows:

23 (e) The commission shall develop and implement policies  
24 that clearly separate the policymaking responsibilities of the  
25 commission and the management responsibilities of the executive  
26 director [~~define the respective responsibilities of the~~  
27 ~~commission~~] and the staff of the commission.



1 SECTION 8. Chapter 511, Government Code, is amended by  
2 adding Section 511.0085 to read as follows:

3 Sec. 511.0085. RISK FACTORS; RISK ASSESSMENT PLAN.

4 (a) The commission shall develop a comprehensive set of risk  
5 factors to use in assessing the overall risk level of each jail  
6 under the commission's jurisdiction. The set of risk factors must  
7 include:

8 (1) a history of the jail's compliance with state law  
9 and commission rules, standards, and procedures;

10 (2) the population of the jail;

11 (3) the number and nature of complaints regarding the  
12 jail, including complaints regarding a violation of any required  
13 ratio of correctional officers to inmates;

14 (4) problems with the jail's internal grievance  
15 procedures;

16 (5) available mental and medical health reports  
17 relating to inmates in the jail, including reports relating to  
18 infectious disease or pregnant inmates;

19 (6) recent turnover among sheriffs and jail staff;

20 (7) inmate escapes from the jail; and

21 (8) the number and nature of inmate deaths at the jail,  
22 including the results of the investigations of those deaths.

23 (b) The commission shall use the set of risk factors  
24 developed under Subsection (a) to guide the inspections process for  
25 all jails under the commission's jurisdiction by:

26 (1) establishing a risk assessment plan to use in  
27 assessing the overall risk level of each jail; and

1           (2) regularly monitoring the overall risk level of  
2 each jail.

3           SECTION 9. Subsection (a), Section 511.009, Government  
4 Code, is amended to read as follows:

5           (a) The commission shall:

6                 (1) adopt reasonable rules and procedures  
7 establishing minimum standards for the construction, equipment,  
8 maintenance, and operation of county jails;

9                 (2) adopt reasonable rules and procedures  
10 establishing minimum standards for the custody, care, and treatment  
11 of prisoners;

12                (3) adopt reasonable rules establishing minimum  
13 standards for the number of jail supervisory personnel and for  
14 programs and services to meet the needs of prisoners;

15                (4) adopt reasonable rules and procedures  
16 establishing minimum requirements for programs of rehabilitation,  
17 education, and recreation in county jails;

18                (5) revise, amend, or change rules and procedures if  
19 necessary;

20                (6) provide to local government officials  
21 consultation on and technical assistance for county jails;

22                (7) review and comment on plans for the construction  
23 and major modification or renovation of county jails;

24                (8) require that the sheriff and commissioners of each  
25 county submit to the commission, on a form prescribed by the  
26 commission, an annual report on the conditions in each county jail  
27 within their jurisdiction, including all information necessary to

1 determine compliance with state law, commission orders, and the  
2 rules adopted under this chapter;

3           (9) review the reports submitted under Subdivision (8)  
4 and require commission employees to inspect county jails regularly  
5 to ensure compliance with state law, commission orders, and rules  
6 and procedures adopted under this chapter;

7           (10) adopt a classification system to assist sheriffs  
8 and judges in determining which defendants are low-risk and  
9 consequently suitable participants in a county jail work release  
10 program under Article 42.034, Code of Criminal Procedure;

11           (11) adopt rules relating to requirements for  
12 segregation of classes of inmates and to capacities for county  
13 jails;

14           (12) require that the chief jailer of each municipal  
15 lockup submit to the commission, on a form prescribed by the  
16 commission, an annual report of persons under 17 years of age  
17 securely detained in the lockup, including all information  
18 necessary to determine compliance with state law concerning secure  
19 confinement of children in municipal lockups;

20           (13) at least annually determine whether each county  
21 jail is in compliance with the rules and procedures adopted under  
22 this chapter;

23           (14) require that the sheriff and commissioners court  
24 of each county submit to the commission, on a form prescribed by the  
25 commission, an annual report of persons under 17 years of age  
26 securely detained in the county jail, including all information  
27 necessary to determine compliance with state law concerning secure

1 confinement of children in county jails; ~~and~~

2 (15) schedule announced and unannounced inspections  
3 of jails under the commission's [its] jurisdiction using the risk  
4 assessment plan established under Section 511.0085 to guide the  
5 inspections process; and

6 (16) adopt a policy for gathering and distributing to  
7 jails under the commission's jurisdiction information regarding:

8 (A) common issues concerning jail  
9 administration;

10 (B) examples of successful strategies for  
11 maintaining compliance with state law and the rules, standards, and  
12 procedures of the commission; and

13 (C) solutions to operational challenges for  
14 jails ~~[based on the jail's history of compliance with commission~~  
15 ~~standards and other high-risk factors identified by the~~  
16 ~~commission]~~.

17 SECTION 10. Chapter 511, Government Code, is amended by  
18 adding Section 511.0115 to read as follows:

19 Sec. 511.0115. PUBLIC INFORMATION ABOUT COMPLIANCE STATUS  
20 OF JAILS. The commission shall provide information to the public  
21 concerning whether jails under the commission's jurisdiction are in  
22 compliance with state law and the rules, standards, and procedures  
23 of the commission:

24 (1) on any publicly accessible Internet website  
25 maintained by the commission; and

26 (2) through other formats, including newsletters or  
27 press releases, as determined by the commission.

1 SECTION 11. Chapter 511, Government Code, is amended by  
2 adding Section 511.018 to read as follows:

3 Sec. 511.018. ALTERNATIVE DISPUTE RESOLUTION. (a) The  
4 commission shall develop and implement a policy to encourage the  
5 use of:

6 (1) negotiated rulemaking procedures under Chapter  
7 2008 for the adoption of commission rules; and

8 (2) appropriate alternative dispute resolution  
9 procedures under Chapter 2009 to assist in the resolution of  
10 internal and external disputes under the commission's  
11 jurisdiction.

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

17 (c) The commission shall designate a trained person to:

18 (1) coordinate the implementation of the policy  
19 adopted under Subsection (a);

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

23 (3) collect data concerning the effectiveness of those  
24 procedures, as implemented by the commission.

25 SECTION 12. Subsection (c), Section 511.0071, Government  
26 Code, is repealed.

27 SECTION 13. The change in law made by Subsection (h),

1 Section 511.004, Government Code, as amended by this Act, regarding  
2 training for members of the Commission on Jail Standards does not  
3 affect the entitlement of a member serving on the commission  
4 immediately before September 1, 2009, to continue to serve and  
5 function as a member of the commission for the remainder of the  
6 member's term, unless otherwise removed as provided by law. The  
7 change in law described by Subsection (h), Section 511.004,  
8 Government Code, applies only to a member appointed or reappointed  
9 on or after September 1, 2009.

10 SECTION 14. The changes in law made by this Act in the  
11 prohibitions or qualifications applying to a member of the  
12 Commission on Jail Standards do not affect the entitlement of a  
13 member serving on the commission immediately before September 1,  
14 2009, to continue to serve and function as a member of the  
15 commission for the remainder of the member's term, unless otherwise  
16 removed as provided by law. Those changes in law apply only to a  
17 member appointed on or after September 1, 2009.

18 SECTION 15. This Act takes effect September 1, 2009.