

1-1 By: Deuell S.B. No. 1009
1-2 (In the Senate - Filed March 5, 2009; March 13, 2009, read
1-3 first time and referred to Committee on Government Organization;
1-4 April 7, 2009, reported favorably by the following vote: Yeas 6,
1-5 Nays 0; April 7, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the continuation and functions of the Commission on
1-9 Jail Standards.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 511.003, Government Code, is amended to
1-12 read as follows:

1-13 Sec. 511.003. SUNSET PROVISION. The Commission on Jail
1-14 Standards is subject to Chapter 325 (Texas Sunset Act). Unless
1-15 continued in existence as provided by that chapter, the commission
1-16 is abolished and this chapter expires September 1, 2021 [2009].

1-17 SECTION 2. Subsections (g), (h), (i), and (j), Section
1-18 511.004, Government Code, are amended to read as follows:

1-19 (g) A person is not eligible for appointment as a public
1-20 member of the commission if the person or the person's spouse:

1-21 (1) is registered, certified, or licensed by a [~~an~~
1-22 ~~occupational~~] regulatory agency in the field of law enforcement;

1-23 (2) is employed by or participates in the management
1-24 of a business entity, county jail, or other organization regulated
1-25 by the commission or receiving funds from the commission;

1-26 (3) owns or controls, directly or indirectly, more
1-27 than a 10 percent interest in a business entity or other
1-28 organization regulated by the commission or receiving funds from
1-29 the commission; or

1-30 (4) uses or receives a substantial amount of tangible
1-31 goods, services, or funds from the commission, other than
1-32 compensation or reimbursement authorized by law for commission
1-33 membership, attendance, or expenses.

1-34 (h) A person who is appointed to and qualifies for [~~To be~~
1-35 ~~eligible to take~~] office as a member of the commission may not vote,
1-36 deliberate, or be counted as a member in attendance at a meeting of
1-37 the commission until the [~~a~~] person completes [~~appointed to the~~
1-38 ~~commission must complete at least one course of~~] a training program
1-39 that complies with Subsection (i).

1-40 (i) The training program required by Subsection (h) must
1-41 provide information to the person regarding:

1-42 (1) this chapter [~~the enabling legislation that~~
1-43 ~~created the commission~~];

1-44 (2) the programs, functions, rules, and budget of
1-45 [~~operated by~~] the commission;

1-46 (3) the results of the most recent formal audit [~~role~~
1-47 ~~and functions~~] of the commission;

1-48 (4) the requirements of laws relating to open
1-49 meetings, public information, administrative procedure, and
1-50 conflicts of interest [~~rules of the commission with an emphasis on~~
1-51 ~~the rules that relate to disciplinary and investigatory authority~~];
1-52 and

1-53 (5) [~~the current budget for the commission,~~
1-54 [~~(6) the results of the most recent formal audit of the~~
1-55 ~~commission,~~

1-56 [~~(7) the requirements of the:~~

1-57 [~~(A) open meetings law, Chapter 551,~~

1-58 [~~(B) open records law, Chapter 552; and~~

1-59 [~~(C) administrative procedure law, Chapter 2001,~~

1-60 [~~(8) the requirements of the conflict of interests~~
1-61 ~~laws and other laws relating to public officials, and~~

1-62 [~~(9)~~] any applicable ethics policies adopted by the
1-63 commission or the Texas Ethics Commission.

1-64 (j) A person appointed to the commission is entitled to

2-1 reimbursement, ~~[for travel expenses incurred in attending the~~
 2-2 ~~training program required by Subsection (h)]~~ as provided by the
 2-3 General Appropriations Act, for travel expenses incurred in
 2-4 attending the training program required by Subsection (h),
 2-5 regardless of whether attendance at the program occurs before or
 2-6 after [and as if] the person qualifies for office [were a member of
 2-7 the commission].

2-8 SECTION 3. Subsection (a), Section 511.0041, Government
 2-9 Code, is amended to read as follows:

2-10 (a) It is a ground for removal from the commission if a
 2-11 member:

2-12 (1) does not have at the time of taking office
 2-13 [appointment] the qualifications required by Section 511.004;

2-14 (2) does not maintain during service on the commission
 2-15 the qualifications required by Section 511.004;

2-16 (3) is ineligible for membership under [violates a
 2-17 prohibition established by] Section 511.004(g) or 511.0042;

2-18 (4) cannot discharge the member's duties for a
 2-19 substantial part of the term for which the member is appointed
 2-20 because of illness or disability; or

2-21 (5) is absent from more than half of the regularly
 2-22 scheduled commission meetings that the member is eligible to attend
 2-23 during a calendar year without an excuse approved [unless the
 2-24 absence is excused] by a majority vote of the commission.

2-25 SECTION 4. Section 511.0042, Government Code, is amended to
 2-26 read as follows:

2-27 Sec. 511.0042. CONFLICT OF INTEREST. (a) A person may not
 2-28 be a member of the commission and may not be a commission employee
 2-29 employed in a "bona fide executive, administrative, or professional
 2-30 capacity," as that phrase is used for purposes of establishing an
 2-31 exemption to the overtime provisions of the federal Fair Labor
 2-32 Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

2-33 (1) the person is an [An] officer, employee, or paid
 2-34 consultant of a Texas trade association in the field of county
 2-35 corrections; or

2-36 (2) the person's [may not be a member of the commission
 2-37 or an employee of the commission who is exempt from the state's
 2-38 position classification plan or is compensated at or above the
 2-39 amount prescribed by the General Appropriations Act for step 1,
 2-40 salary group 17, of the position classification salary schedule.

2-41 [(b) A person who is the] spouse is [of] an officer,
 2-42 manager, or paid consultant of a Texas trade association in the
 2-43 field of county corrections [may not be a commission member and may
 2-44 not be a commission employee who is exempt from the state's position
 2-45 classification plan or is compensated at or above the amount
 2-46 prescribed by the General Appropriations Act for step 1, salary
 2-47 group 17, of the position classification salary schedule].

2-48 (b) In [(c) For the purposes of] this section, "Texas
 2-49 trade association" means [a Texas trade association is] a
 2-50 [nonprofit,] cooperative[,] and voluntarily joined statewide
 2-51 association of business or professional competitors in this state
 2-52 designed to assist its members and its industry or profession in
 2-53 dealing with mutual business or professional problems and in
 2-54 promoting their common interest.

2-55 (c) [(d)] A person may not be [serve as] a member of the
 2-56 commission or act as the general counsel to the commission if the
 2-57 person is required to register as a lobbyist under Chapter 305
 2-58 because of the person's activities for compensation on behalf of a
 2-59 profession related to the operation of the commission.

2-60 SECTION 5. Chapter 511, Government Code, is amended by
 2-61 adding Section 511.0061 to read as follows:

2-62 Sec. 511.0061. USE OF TECHNOLOGY. The commission shall
 2-63 implement a policy requiring the commission to use appropriate
 2-64 technological solutions to improve the commission's ability to
 2-65 perform its functions. The policy must ensure that the public is
 2-66 able to interact with the commission on the Internet.

2-67 SECTION 6. Section 511.0071, Government Code, is amended by
 2-68 amending Subsections (a), (d), (e), and (f) and adding Subsection
 2-69 (a-1) to read as follows:

3-1 (a) The commission shall prepare information of public
 3-2 interest describing the functions of the commission and the
 3-3 commission's procedures by which complaints regarding the
 3-4 commission and complaints regarding jails under the commission's
 3-5 jurisdiction are filed with and resolved by the commission. The
 3-6 commission shall make the information available:

3-7 (1) to the public, inmates, county officials, and
 3-8 appropriate state agencies; and

3-9 (2) on any publicly accessible Internet website
 3-10 maintained by the commission.

3-11 (a-1) The commission shall adopt rules and procedures
 3-12 regarding the receipt, investigation, resolution, and disclosure
 3-13 to the public of complaints regarding the commission and complaints
 3-14 regarding jails under the commission's jurisdiction that are filed
 3-15 with the commission. The commission shall:

3-16 (1) prescribe a form or forms on which written
 3-17 complaints regarding the commission and complaints regarding jails
 3-18 under the commission's jurisdiction may be filed with the
 3-19 commission;

3-20 (2) keep an information file in accordance with
 3-21 Subsection (f) regarding each complaint filed with the commission
 3-22 regarding the commission or a jail under the commission's
 3-23 jurisdiction;

3-24 (3) develop procedures for prioritizing complaints
 3-25 filed with the commission and a reasonable time frame for
 3-26 responding to those complaints;

3-27 (4) maintain a system for promptly and efficiently
 3-28 acting on complaints filed with the commission;

3-29 (5) develop a procedure for tracking and analyzing all
 3-30 complaints filed with the commission, according to criteria that
 3-31 must include:

3-32 (A) the reason for or origin of complaints;

3-33 (B) the average number of days that elapse
 3-34 between the date on which complaints are filed, the date on which
 3-35 the commission first investigates or otherwise responds to
 3-36 complaints, and the date on which complaints are resolved;

3-37 (C) the outcome of investigations or the
 3-38 resolution of complaints, including dismissals and commission
 3-39 actions resulting from complaints;

3-40 (D) the number of pending complaints at the close
 3-41 of each fiscal year; and

3-42 (E) a list of complaint topics that the
 3-43 commission does not have jurisdiction to investigate or resolve;
 3-44 and

3-45 (6) regularly prepare and distribute to members of the
 3-46 commission a report containing a summary of the information
 3-47 compiled under Subdivision (5).

3-48 (d) ~~[The commission shall keep an information file about~~
 3-49 ~~each complaint filed with the commission that the commission has~~
 3-50 ~~authority to resolve. The commission is not required to keep an~~
 3-51 ~~information file about a complaint to the commission from or~~
 3-52 ~~related to a prisoner of a county or municipal jail.]~~ The
 3-53 commission shall adopt rules and procedures regarding the referral
 3-54 of ~~[refer]~~ a complaint filed with the commission from or related to
 3-55 a prisoner to the appropriate local agency for investigation and
 3-56 resolution. The commission ~~[and]~~ may perform a special inspection
 3-57 of a facility named in the complaint to determine compliance with
 3-58 commission requirements.

3-59 (e) If a written complaint is filed with the commission that
 3-60 the commission has authority to resolve, the commission at least
 3-61 quarterly and until final disposition of the complaint shall notify
 3-62 the parties to the complaint of the status of the complaint, unless
 3-63 the notice would jeopardize an undercover investigation. This
 3-64 subsection does not apply to a complaint referred to a local agency
 3-65 under Subsection (d).

3-66 (f) The commission shall collect and maintain information
 3-67 about each complaint received by the commission regarding the
 3-68 commission or a jail under the commission's jurisdiction,
 3-69 including:

- 4-1 (1) the date the complaint is received;
- 4-2 (2) the name of the complainant;
- 4-3 (3) the subject matter of the complaint;
- 4-4 (4) a record of all persons contacted in relation to
- 4-5 the complaint;
- 4-6 (5) a summary of the results of the review or
- 4-7 investigation of the complaint; and
- 4-8 (6) for a complaint for which the agency took no
- 4-9 action, an explanation of the reason the complaint was closed
- 4-10 without action.

4-11 SECTION 7. Subsection (e), Section 511.008, Government
4-12 Code, is amended to read as follows:

4-13 (e) The commission shall develop and implement policies
4-14 that clearly separate the policymaking responsibilities of the
4-15 commission and the management responsibilities of the executive
4-16 director [~~define the respective responsibilities of the~~
4-17 ~~commission~~] and the staff of the commission.

4-18 SECTION 8. Chapter 511, Government Code, is amended by
4-19 adding Section 511.0085 to read as follows:

4-20 Sec. 511.0085. RISK FACTORS; RISK ASSESSMENT PLAN.

4-21 (a) The commission shall develop a comprehensive set of risk
4-22 factors to use in assessing the overall risk level of each jail
4-23 under the commission's jurisdiction. The set of risk factors must
4-24 include:

- 4-25 (1) a history of the jail's compliance with state law
4-26 and commission rules, standards, and procedures;
- 4-27 (2) the population of the jail;
- 4-28 (3) the number and nature of complaints regarding the
4-29 jail, including complaints regarding a violation of any required
4-30 ratio of correctional officers to inmates;
- 4-31 (4) problems with the jail's internal grievance
4-32 procedures;
- 4-33 (5) available mental and medical health reports
4-34 relating to inmates in the jail, including reports relating to
4-35 infectious disease or pregnant inmates;
- 4-36 (6) recent turnover among sheriffs and jail staff;
- 4-37 (7) inmate escapes from the jail; and
- 4-38 (8) the number and nature of inmate deaths at the jail,
4-39 including the results of the investigations of those deaths.

4-40 (b) The commission shall use the set of risk factors
4-41 developed under Subsection (a) to guide the inspections process for
4-42 all jails under the commission's jurisdiction by:

- 4-43 (1) establishing a risk assessment plan to use in
4-44 assessing the overall risk level of each jail; and
- 4-45 (2) regularly monitoring the overall risk level of
4-46 each jail.

4-47 SECTION 9. Subsection (a), Section 511.009, Government
4-48 Code, is amended to read as follows:

4-49 (a) The commission shall:

- 4-50 (1) adopt reasonable rules and procedures
4-51 establishing minimum standards for the construction, equipment,
4-52 maintenance, and operation of county jails;
- 4-53 (2) adopt reasonable rules and procedures
4-54 establishing minimum standards for the custody, care, and treatment
4-55 of prisoners;
- 4-56 (3) adopt reasonable rules establishing minimum
4-57 standards for the number of jail supervisory personnel and for
4-58 programs and services to meet the needs of prisoners;
- 4-59 (4) adopt reasonable rules and procedures
4-60 establishing minimum requirements for programs of rehabilitation,
4-61 education, and recreation in county jails;
- 4-62 (5) revise, amend, or change rules and procedures if
4-63 necessary;
- 4-64 (6) provide to local government officials
4-65 consultation on and technical assistance for county jails;
- 4-66 (7) review and comment on plans for the construction
4-67 and major modification or renovation of county jails;
- 4-68 (8) require that the sheriff and commissioners of each
4-69 county submit to the commission, on a form prescribed by the

5-1 commission, an annual report on the conditions in each county jail
5-2 within their jurisdiction, including all information necessary to
5-3 determine compliance with state law, commission orders, and the
5-4 rules adopted under this chapter;

5-5 (9) review the reports submitted under Subdivision (8)
5-6 and require commission employees to inspect county jails regularly
5-7 to ensure compliance with state law, commission orders, and rules
5-8 and procedures adopted under this chapter;

5-9 (10) adopt a classification system to assist sheriffs
5-10 and judges in determining which defendants are low-risk and
5-11 consequently suitable participants in a county jail work release
5-12 program under Article 42.034, Code of Criminal Procedure;

5-13 (11) adopt rules relating to requirements for
5-14 segregation of classes of inmates and to capacities for county
5-15 jails;

5-16 (12) require that the chief jailer of each municipal
5-17 lockup submit to the commission, on a form prescribed by the
5-18 commission, an annual report of persons under 17 years of age
5-19 securely detained in the lockup, including all information
5-20 necessary to determine compliance with state law concerning secure
5-21 confinement of children in municipal lockups;

5-22 (13) at least annually determine whether each county
5-23 jail is in compliance with the rules and procedures adopted under
5-24 this chapter;

5-25 (14) require that the sheriff and commissioners court
5-26 of each county submit to the commission, on a form prescribed by the
5-27 commission, an annual report of persons under 17 years of age
5-28 securely detained in the county jail, including all information
5-29 necessary to determine compliance with state law concerning secure
5-30 confinement of children in county jails; ~~and~~

5-31 (15) schedule announced and unannounced inspections
5-32 of jails under the commission's [its] jurisdiction using the risk
5-33 assessment plan established under Section 511.0085 to guide the
5-34 inspections process; and

5-35 (16) adopt a policy for gathering and distributing to
5-36 jails under the commission's jurisdiction information regarding:

5-37 (A) common issues concerning jail
5-38 administration;

5-39 (B) examples of successful strategies for
5-40 maintaining compliance with state law and the rules, standards, and
5-41 procedures of the commission; and

5-42 (C) solutions to operational challenges for
5-43 jails [based on the jail's history of compliance with commission
5-44 standards and other high-risk factors identified by the
5-45 commission].

5-46 SECTION 10. Chapter 511, Government Code, is amended by
5-47 adding Section 511.0115 to read as follows:

5-48 Sec. 511.0115. PUBLIC INFORMATION ABOUT COMPLIANCE STATUS
5-49 OF JAILS. The commission shall provide information to the public
5-50 concerning whether jails under the commission's jurisdiction are in
5-51 compliance with state law and the rules, standards, and procedures
5-52 of the commission:

5-53 (1) on any publicly accessible Internet website
5-54 maintained by the commission; and

5-55 (2) through other formats, including newsletters or
5-56 press releases, as determined by the commission.

5-57 SECTION 11. Chapter 511, Government Code, is amended by
5-58 adding Section 511.018 to read as follows:

5-59 Sec. 511.018. ALTERNATIVE DISPUTE RESOLUTION. (a) The
5-60 commission shall develop and implement a policy to encourage the
5-61 use of:

5-62 (1) negotiated rulemaking procedures under Chapter
5-63 2008 for the adoption of commission rules; and

5-64 (2) appropriate alternative dispute resolution
5-65 procedures under Chapter 2009 to assist in the resolution of
5-66 internal and external disputes under the commission's
5-67 jurisdiction.

5-68 (b) The commission's procedures relating to alternative
5-69 dispute resolution must conform, to the extent possible, to any

6-1 model guidelines issued by the State Office of Administrative
6-2 Hearings for the use of alternative dispute resolution by state
6-3 agencies.

6-4 (c) The commission shall designate a trained person to:
6-5 (1) coordinate the implementation of the policy
6-6 adopted under Subsection (a);

6-7 (2) serve as a resource for any training needed to
6-8 implement the procedures for negotiated rulemaking or alternative
6-9 dispute resolution; and

6-10 (3) collect data concerning the effectiveness of those
6-11 procedures, as implemented by the commission.

6-12 SECTION 12. Subsection (c), Section 511.0071, Government
6-13 Code, is repealed.

6-14 SECTION 13. The change in law made by Subsection (h),
6-15 Section 511.004, Government Code, as amended by this Act, regarding
6-16 training for members of the Commission on Jail Standards does not
6-17 affect the entitlement of a member serving on the commission
6-18 immediately before September 1, 2009, to continue to serve and
6-19 function as a member of the commission for the remainder of the
6-20 member's term, unless otherwise removed as provided by law. The
6-21 change in law described by Subsection (h), Section 511.004,
6-22 Government Code, applies only to a member appointed or reappointed
6-23 on or after September 1, 2009.

6-24 SECTION 14. The changes in law made by this Act in the
6-25 prohibitions or qualifications applying to a member of the
6-26 Commission on Jail Standards do not affect the entitlement of a
6-27 member serving on the commission immediately before September 1,
6-28 2009, to continue to serve and function as a member of the
6-29 commission for the remainder of the member's term, unless otherwise
6-30 removed as provided by law. Those changes in law apply only to a
6-31 member appointed on or after September 1, 2009.

6-32 SECTION 15. This Act takes effect September 1, 2009.

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