

Suspending limitations on conference committee
jurisdiction, S.B. No. 1

By: Duncan

S.R. No. 130

SENATE RESOLUTION

BE IT RESOLVED by the Senate of the State of Texas, 82nd Legislature, 1st Called Session, 2011, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on Senate Bill 1 (certain state fiscal matters; providing penalties) to consider and take action on the following matters:

(1) Senate Rule 12.03(1) is suspended to permit the committee to change text which is not in disagreement in proposed Section 4.02 of the bill, in added Section 111.0041(c), Tax Code, to read as follows:

Contemporaneous records and supporting documentation appropriate to the tax or fee may include, for example, invoices, vouchers, checks, shipping records, contracts, or other equivalent records, such as electronically stored images of such documents, reflecting legal relationships and taxes collected and paid.

Explanation: The change is necessary to provide clear examples of what types of records or documentation appropriate to a tax or fee may be used to verify certain claims.

(2) Senate Rule 12.03(2) is suspended to permit the committee to omit text which is not in disagreement, Article 5 of the senate engrossment of Senate Bill No. 1 and the corresponding article of the bill as the bill was amended by the house of representatives, relating to unclaimed property, that reads:

ARTICLE 5. UNCLAIMED PROPERTY

SECTION 5.01. Subsection (a), Section 72.101, Property Code, is amended to read as follows:

(a) Except as provided by this section and Sections 72.1015, 72.1016, 72.1017, and 72.102, personal property is presumed abandoned if, for longer than three years:

(1) the existence and location of the owner of the property is unknown to the holder of the property; and

(2) according to the knowledge and records of the holder of the property, a claim to the property has not been asserted or an act of ownership of the property has not been exercised.

SECTION 5.02. Subchapter B, Chapter 72, Property Code, is amended by adding Section 72.1017 to read as follows:

Sec. 72.1017. UTILITY DEPOSITS. (a) In this section:

(1) "Utility" has the meaning assigned by Section 183.001, Utilities Code.

(2) "Utility deposit" is a refundable money deposit a utility requires a user of the utility service to pay as a condition of initiating the service.

(b) Notwithstanding Section 73.102, a utility deposit is presumed abandoned on the latest of:

(1) the first anniversary of the date a refund check for the utility deposit was payable to the owner of the deposit;

(2) the first anniversary of the date the utility last received documented communication from the owner of the utility deposit; or

(3) the first anniversary of the date the utility issued a refund check for the deposit payable to the owner of the deposit if, according to the knowledge and records of the utility or payor of the check, during that period, a claim to the check has not been asserted or an act of ownership by the payee has not been exercised.

SECTION 5.03. Subsection (c), Section 72.102, Property Code, is amended to read as follows:

(c) A money order to which Subsection (a) applies is presumed to be abandoned on the latest of:

(1) the third [~~seventh~~] anniversary of the date on which the money order was issued;

(2) the third [~~seventh~~] anniversary of the date on which the issuer of the money order last received from the owner of the money order communication concerning the money order; or

(3) the third [~~seventh~~] anniversary of the date of the last writing, on file with the issuer, that indicates the owner's interest in the money order.

SECTION 5.04. Section 72.103, Property Code, is amended to read as follows:

Sec. 72.103. PRESERVATION OF PROPERTY. Notwithstanding any other provision of this title except a provision of this section or Section 72.1016 relating to a money order or a stored value card, a holder of abandoned property shall preserve the property and may not at any time, by any procedure, including a deduction for service, maintenance, or other charge, transfer or convert to the profits or assets of the holder or otherwise

reduce the value of the property. For purposes of this section, value is determined as of the date of the last transaction or contact concerning the property, except that in the case of a money order, value is determined as of the date the property is presumed abandoned under Section 72.102(c). If a holder imposes service, maintenance, or other charges on a money order prior to the time of presumed abandonment, such charges may not exceed the amount of \$1 [~~50 cents~~] per month for each month the money order remains uncashed prior to the month in which the money order is presumed abandoned.

SECTION 5.05. Section 73.101, Property Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) An account or safe deposit box is presumed abandoned if:

(1) except as provided by Subsection (c), the account or safe deposit box has been inactive for at least five years as determined under Subsection (b);

(2) the location of the depositor of the account or owner of the safe deposit box is unknown to the depository; and

(3) the amount of the account or the contents of the box have not been delivered to the comptroller in accordance with Chapter 74.

(c) If the account is a checking or savings account or is a matured certificate of deposit, the account is presumed abandoned if the account has been inactive for at least three years as determined under Subsection (b)(1).

SECTION 5.06. Subsection (a), Section 74.101, Property Code, is amended to read as follows:

(a) Each holder who on March 1 [~~June 30~~] holds property that is presumed abandoned under Chapter 72, 73, or 75 of this code or under Chapter 154, Finance Code, shall file a report of that property on or before the following July [~~November~~] 1. The comptroller may require the report to be in a particular format, including a format that can be read by a computer.

SECTION 5.07. Subsection (a), Section 74.1011, Property Code, is amended to read as follows:

(a) Except as provided by Subsection (b), a holder who on March 1 [~~June 30~~] holds property valued at more than \$250 that is presumed abandoned under Chapter 72, 73, or 75 of this code or Chapter 154, Finance Code, shall, on or before the following May [~~August~~] 1, mail to the last known address of the known owner written notice stating that:

- (1) the holder is holding the property; and
- (2) the holder may be required to deliver the property to the comptroller on or before July [~~November~~] 1 if the property is not claimed.

SECTION 5.08. Subsections (a) and (c), Section 74.301, Property Code, are amended to read as follows:

(a) Except as provided by Subsection (c), each holder who on March 1 [~~June 30~~] holds property that is presumed abandoned under Chapter 72, 73, or 75 shall deliver the property to the comptroller on or before the following July [~~November~~] 1 accompanied by the report required to be filed under Section

74.101.

(c) If the property subject to delivery under Subsection (a) is the contents of a safe deposit box, the comptroller may instruct a holder to deliver the property on a specified date before July [~~November~~] 1 of the following year.

SECTION 5.09. Subsection (e), Section 74.601, Property Code, is amended to read as follows:

(e) The comptroller on receipt or from time to time may [~~from time to time~~] sell securities, including stocks, bonds, and mutual funds, received under this chapter or any other statute requiring the delivery of unclaimed property to the comptroller and use the proceeds to buy, exchange, invest, or reinvest in marketable securities. When making or selling the investments, the comptroller shall exercise the judgment and care of a prudent person.

SECTION 5.10. Section 74.708, Property Code, is amended to read as follows:

Sec. 74.708. PROPERTY HELD IN TRUST. A holder who on March 1 [~~June 30~~] holds property presumed abandoned under Chapters 72-75 holds the property in trust for the benefit of the state on behalf of the missing owner and is liable to the state for the full value of the property, plus any accrued interest and penalty. A holder is not required by this section to segregate or establish trust accounts for the property provided the property is timely delivered to the comptroller in accordance with Section 74.301.

SECTION 5.11. (a) Except as provided by Subsection (b)

or (c) of this section, this article takes effect on the 91st day after the last day of the legislative session.

(b) Except as provided by Subsection (c) of this section, Subsection (a), Section 74.101, Subsection (a), Section 74.1011, Subsections (a) and (c), Section 74.301, and Section 74.708, Property Code, as amended by this article, take effect January 1, 2013.

(c) If H.B. No. 257, Acts of the 82nd Legislature, Regular Session, 2011, becomes law, this article has no effect.

SECTION 5.12. A charge imposed on a money order under Section 72.103, Property Code, by a holder before the effective date of this article is governed by the law applicable to the charge immediately before the effective date of this article, and the holder may retain the charge.

Explanation: The article is omitted as unnecessary because its provisions were largely duplicative of those of House Bill No. 257, Acts of the 82nd Legislature, Regular Session, 2011, as effective September 1, 2011, and January 1, 2013.

(3) Senate Rule 12.03(3) is suspended to permit the committee to add text on a matter which is not in disagreement in proposed Sections 5.01 and 5.02 of the bill to read as follows:

SECTION 5.01. Subsection (b), Section 72.1017, Property Code, as effective September 1, 2011, is amended to read as follows:

(b) Notwithstanding Section 73.102, a utility deposit is presumed abandoned on the latest of:

- (1) the first anniversary of [~~18 months after~~] the

date a refund check for the utility deposit was payable to the owner of the deposit;

(2) the first anniversary of [~~18 months after~~] the date the utility last received documented communication from the owner of the utility deposit; or

(3) the first anniversary of [~~18 months after~~] the date the utility issued a refund check for the deposit payable to the owner of the deposit if, according to the knowledge and records of the utility or payor of the check, during that period, a claim to the check has not been asserted or an act of ownership by the payee has not been exercised.

SECTION 5.02. This article takes effect on the 91st day after the last day of the legislative session.

Explanation: The change is necessary to provide for a presumption of abandonment of certain utility deposits after one year.

(4) Senate Rule 12.03(4) is suspended to permit the committee in proposed Section 7.01 of the bill to add text on a matter not included in either the house or the senate version of the bill to read as follows:

SECTION 7.01. Section 51.008, Government Code, as effective September 1, 2011, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) The Office of Court Administration of the Texas Judicial System may collect the fees recommended by the process server review board and approved by the supreme court. Fees collected under this section shall be sent to the comptroller for

deposit to the credit of the general revenue fund [~~and may be appropriated only to the office for purposes of this section~~].

(d) Fees collected under this section may be appropriated to the Office of Court Administration of the Texas Judicial System for the support of regulatory programs for process servers, guardians, and court reporters.

Explanation: The changes are necessary to clarify the purposes for which certain deposited fees may be appropriated.

(5) Senate Rule 12.03(2) is suspended to permit the committee to omit text which is not in disagreement, Section 8.01 of the senate engrossment of Senate Bill No. 1 and the corresponding section of the bill as the bill was amended by the house of representatives, relating to petroleum industry regulation, that reads:

SECTION 8.01. Section 26.3574, Water Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) A fee is imposed on the delivery of a petroleum product on withdrawal from bulk of that product as provided by this subsection. Each operator of a bulk facility on withdrawal from bulk of a petroleum product shall collect from the person who orders the withdrawal a fee in an amount determined as follows:

(1) not more than \$3.125 [~~\$3.75~~] for each delivery into a cargo tank having a capacity of less than 2,500 gallons [~~for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011~~];

(2) not more than \$6.25 [~~\$7.50~~] for each delivery into a cargo tank having a capacity of 2,500 gallons or more but less than 5,000 gallons [~~for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011~~];

(3) not more than \$9.37 [~~\$11.75~~] for each delivery into a cargo tank having a capacity of 5,000 gallons or more but less than 8,000 gallons [~~for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011~~];

(4) not more than \$12.50 [~~\$15.00~~] for each delivery into a cargo tank having a capacity of 8,000 gallons or more but less than 10,000 gallons [~~for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011~~]; and

(5) not more than \$6.25 [~~\$7.50~~] for each increment of 5,000 gallons or any part thereof delivered into a cargo tank having a capacity of 10,000 gallons or more [~~for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011~~].

(b-1) The commission by rule shall set the amount of the fee in Subsection (b) in an amount not to exceed the amount necessary to cover the agency's costs of administering this subchapter, as indicated by the amount appropriated by the legislature from the petroleum storage tank remediation account for that purpose.

Explanation: The text is omitted as unnecessary because

it largely duplicates provisions of Section 4.19, House Bill No. 2694, Acts of the 82nd Legislature, Regular Session, 2011, as effective September 1, 2011.

(6) Senate Rule 12.03(1) is suspended to permit the committee to alter text which is not in disagreement in proposed Section 15.05 of the bill to read as follows:

SECTION 15.05. Subsection (d), Section 19.002, Election Code, as effective September 1, 2011, is amended to read as follows:

(d) The secretary of state [~~comptroller~~] may not make a payment under Subsection (b) [~~issue a warrant~~] if on June 1 of the year in which the payment [~~warrant~~] is to be made [~~issued the most recent notice received by the comptroller from the secretary of state under Section 18.065 indicates that~~] the registrar is not in substantial compliance with Section 15.083, 16.032, or 18.065 or with rules implementing the registration service program.

Explanation: The change is necessary to conform the bill to changes in law made by House Bill No. 2817, Acts of the 82nd Legislature, Regular Session, 2011, as effective September 1, 2011.

(7) Senate Rule 12.03(2) is suspended to permit the committee to omit text which is not in disagreement, text of Article 24 of the senate engrossment of Senate Bill No. 1 and the corresponding article of the bill as the bill was amended by the house of representatives, relating to leasing certain state facilities, that reads:

ARTICLE 24. FISCAL MATTERS REGARDING LEASING CERTAIN STATE
FACILITIES

SECTION 24.01. The heading to Section 2165.2035, Government Code, is amended to read as follows:

Sec. 2165.2035. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES; USE AFTER HOURS.

SECTION 24.02. Subchapter E, Chapter 2165, Government Code, is amended by adding Sections 2165.204, 2165.2045, and 2165.2046 to read as follows:

Sec. 2165.204. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES; EXCESS INDIVIDUAL PARKING SPACES. (a) The commission may lease to a private individual an individual parking space in a state-owned parking lot or garage located in the city of Austin that the commission determines is not needed to accommodate the regular parking requirements of state employees who work near the lot or garage and visitors to nearby state government offices.

(b) Money received from a lease under this section shall be deposited to the credit of the general revenue fund.

(c) In leasing a parking space under Subsection (a), the commission must ensure that the lease does not restrict uses for parking lots and garages developed under Section 2165.2035, including special event parking related to institutions of higher education.

(d) In leasing or renewing a lease for a parking space under Subsection (a), the commission shall give preference to an individual who is currently leasing or previously leased the

parking space.

Sec. 2165.2045. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES; EXCESS BLOCKS OF PARKING SPACE. (a) The commission may lease to an institution of higher education or a local government all or a significant block of a state-owned parking lot or garage located in the city of Austin that the commission determines is not needed to accommodate the regular parking requirements of state employees who work near the lot or garage and visitors to nearby state government offices.

(b) Money received from a lease under this section shall be deposited to the credit of the general revenue fund.

(c) In leasing all or a block of a state-owned parking lot or garage under Subsection (a), the commission must ensure that the lease does not restrict uses for parking lots and garages developed under Section 2165.2035, including special event parking related to institutions of higher education.

(d) In leasing or renewing a lease for all or a block of a state-owned parking lot or garage under Subsection (a), the commission shall give preference to an entity that is currently leasing or previously leased the lot or garage or a block of the lot or garage.

Sec. 2165.2046. REPORTS ON PARKING PROGRAMS. On or before October 1 of each even-numbered year, the commission shall submit a report to the Legislative Budget Board describing the effectiveness of parking programs developed by the commission under this subchapter. The report must, at a minimum, include:

- (1) the yearly revenue generated by the programs;

(2) the yearly administrative and enforcement costs of each program;

(3) yearly usage statistics for each program; and

(4) initiatives and suggestions by the commission

to:

(A) modify administration of the programs; and

(B) increase revenue generated by the

programs.

Explanation: The text is omitted as unnecessary because it largely duplicates or is in conflict with provisions of Senate Bill No. 1068, Acts of the 82nd Legislature, Regular Session, 2011, as effective June 17, 2011.

(8) Senate Rule 12.03(2) is suspended to permit the committee to omit text which is not in disagreement, Sections 26.02, 26.03, 26.06, and 26.08 of the senate engrossment of Senate Bill No. 1 and the corresponding sections of the bill as the bill was amended by the house of representatives, relating to the review by the attorney general of invoices related to legal services provided to state agencies, that reads:

SECTION 26.02. The heading to Section 402.0212, Government Code, is amended to read as follows:

Sec. 402.0212. PROVISION OF LEGAL SERVICES--OUTSIDE COUNSEL; FEES.

SECTION 26.03. Section 402.0212, Government Code, is amended by amending Subsections (b) and (c) and adding Subsections (d), (e), and (f) to read as follows:

(b) An invoice submitted to a state agency under a

contract for legal services as described by Subsection (a) must be reviewed by the attorney general to determine whether the invoice is eligible for payment.

(c) An attorney or law firm must pay an administrative fee to the attorney general for the review described in Subsection (b) when entering into a contract to provide legal services to a state agency.

(d) For purposes of this section, the functions of a hearing examiner, administrative law judge, or other quasi-judicial officer are not considered legal services.

(e) [~~(e)~~] This section shall not apply to the Texas Turnpike Authority division of the Texas Department of Transportation.

(f) The attorney general may adopt rules as necessary to implement and administer this section.

SECTION 26.06. The fee prescribed by Section 402.0212, Government Code, as amended by this article, applies only to invoices for legal services submitted to the office of the attorney general for review on or after the effective date of this article.

SECTION 26.08. The changes in law made by this article apply only to a contract for legal services between a state agency and a private attorney or law firm entered into on or after the effective date of this article. A contract for legal services between a state agency and a private attorney or law firm entered into before the effective date of this article is governed by the law in effect at the time the contract was entered

into, and the former law is continued in effect for that purpose.

Explanation: The text is omitted as unnecessary because it largely duplicates or is in conflict with provisions of Senate Bill No. 367, Acts of the 82nd Legislature, Regular Session, 2011, as effective June 17, 2011.

(9) Senate Rule 12.03(2) is suspended to permit the committee to omit text which is not in disagreement, Sections 26.04 and 26.07 of the senate engrossment of Senate Bill No. 1 and the corresponding sections of the bill as the bill was amended by the house of representatives, relating to the review by the attorney general of invoices related to legal services provided to state agencies, that reads:

SECTION 26.04. Section 371.051, Transportation Code, is amended to read as follows:

Sec. 371.051. ATTORNEY GENERAL REVIEW AND EXAMINATION FEE. (a) A toll project entity may not enter into a comprehensive development agreement unless the attorney general reviews the proposed agreement and determines that it is legally sufficient.

(b) A toll project entity shall pay a nonrefundable examination fee to the attorney general on submitting a proposed comprehensive development agreement for review. At the time the examination fee is paid, the toll project entity shall also submit for review a complete transcript of proceedings related to the comprehensive development agreement.

(c) If the toll project entity submits multiple proposed comprehensive development agreements relating to the same toll

project for review, the entity shall pay the examination fee under Subsection (b) for each proposed comprehensive development agreement.

(d) The attorney general shall provide a legal sufficiency determination not later than the 60th business day after the date the examination fee and transcript of the proceedings required under Subsection (b) are received. If the attorney general cannot provide a legal sufficiency determination within the 60-business-day period, the attorney general shall notify the toll project entity in writing of the reason for the delay and may extend the review period for not more than 30 business days.

(e) After the attorney general issues a legal sufficiency determination, a toll project entity may supplement the transcript of proceedings or amend the comprehensive development agreement to facilitate a redetermination by the attorney general of the prior legal sufficiency determination issued under this section.

(f) The toll project entity may collect or seek reimbursement of the examination fee under Subsection (b) from the private participant.

(g) The attorney general by rule shall set the examination fee required under Subsection (b) in a reasonable amount and may adopt other rules as necessary to implement this section. The fee may not be set in an amount that is determined by a percentage of the cost of the toll project. The amount of the fee may not exceed reasonable attorney's fees charged for

similar legal services in the private sector.

SECTION 26.07. The fee prescribed by Section 371.051, Transportation Code, as amended by this article, applies only to a comprehensive development agreement submitted to the office of the attorney general on or after the effective date of this article.

Explanation: The text is omitted as unnecessary because it largely duplicates or is in conflict with provisions of Senate Bill No. 731, Acts of the 82nd Legislature, Regular Session, 2011, as effective June 17, 2011.

(10) Senate Rule 12.03(4) is suspended to permit the committee in proposed Sections 23.01-23.04 of the bill to add text on a matter which is not included in either the house or senate version of the bill to read as follows:

SECTION 23.01. Section 572.054, Government Code, is amended by adding Subsection (g-1) to read as follows:

(g-1) For purposes of this section, the Department of Information Resources is a regulatory agency.

SECTION 23.02. Section 2054.005, Government Code, is amended to read as follows:

Sec. 2054.005. SUNSET PROVISION. (a) The Department of Information Resources is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2013 [~~2011~~].

(b) The review of the Department of Information Resources by the Sunset Advisory Commission in preparation for the work of

the 83rd Legislature, Regular Session, is not limited to the appropriateness of recommendations made by the commission to the 82nd Legislature. In the commission's report to the 83rd Legislature, the commission may include any recommendations it considers appropriate.

SECTION 23.03. Subchapter C, Chapter 2054, Government Code, is amended by adding Section 2054.064 to read as follows:

Sec. 2054.064. BOARD APPROVAL OF CONTRACTS. The board by rule shall establish approval requirements for all contracts, including a monetary threshold above which board approval is required before the contract may be executed.

SECTION 23.04. Subsection (b), Section 2054.376, Government Code, is amended to read as follows:

(b) This subchapter does not apply to:

(1) the Department of Public Safety's use for criminal justice or homeland security purposes of a federal database or network;

(2) a Texas equivalent of a database or network described by Subdivision (1) that is managed by the Department of Public Safety;

(3) the uniform statewide accounting system, as that term is used in Subchapter C, Chapter 2101;

(4) the state treasury cash and treasury management system; ~~or~~

(5) a database or network managed by the comptroller to:

(A) collect and process multiple types of

taxes imposed by the state; or

(B) manage or administer fiscal, financial, revenue, and expenditure activities of the state under Chapter 403 and Chapter 404; or

(6) a database or network managed by the Department of Agriculture.

Explanation: The change is necessary to provide for Sunset Advisory Commission review of and for functions and activities of the Department of Information Resources and to provide for the applicability of restrictions on certain activities by former employees of the Department of Information Resources.

(11) Senate Rule 12.03(4) is suspended to permit the committee in proposed Section 23.06 of the bill to add text on a matter which is not included in either the house or senate version of the bill to read as follows:

SECTION 23.06. Subsections (b) and (d), Section 2157.068, Government Code, are amended to read as follows:

(b) The department shall negotiate with vendors [~~to attempt~~] to obtain the best value for the state in the purchase of commodity items. The department may consider strategic sourcing and other methodologies to select the vendor offering the best value on [~~a favorable price for all of state government on licenses for~~] commodity items[~~, based on the aggregate volume of purchases expected to be made by the state~~]. The terms and conditions of a license agreement between a vendor and the department under this section may not be less favorable to the

state than the terms of similar license agreements between the vendor and retail distributors.

Explanation: The change is necessary to provide authority for negotiations for the best value in commodity purchases.

(12) Senate Rule 12.03(1) is suspended to permit the committee to alter text which is not in disagreement in proposed Section 26.01 of the bill to read as follows:

SECTION 26.01. Subsection (c), Section 434.017, Government Code, is amended to read as follows:

(c) Money in the fund may only be appropriated to the Texas Veterans Commission. Money appropriated under this subsection shall be used to:

- (1) make grants to address veterans' needs; ~~and~~
- (2) administer the fund; and
- (3) analyze and investigate data received from the federal Public Assistance Reporting Information System (PARIS) that is administered by the Administration for Children and Families of the United States Department of Health and Human Services.

Explanation: The change is necessary to conform the text to the change in law made by Senate Bill No. 1739, Acts of the 82nd Legislature, Regular Session, 2011, as effective June 17, 2011.

(13) Senate Rule 12.03(4) is suspended to permit the committee in proposed Section 34.06 of the bill to add text on a matter which is not included in either the house or senate version of the bill to read as follows:

SECTION 34.06. It is the intent of the legislature that the Legislative Budget Board place information on its Internet website that provides additional program detail for items of appropriation in the General Appropriations Act. The Legislative Budget Board shall include as additional program detail the specific programs funded, the source of that funding, and the related statutory authorization.

Explanation: The change is necessary to provide for greater access to information regarding the state budget.

(14) Senate Rule 12.03(3) is suspended to permit the committee to add text on a matter which is not in disagreement in proposed Section 35.02 of the bill by adding Section 314.002(d), Labor Code, to read as follows:

(d) The commission, for the purposes of this section, may use:

(1) money appropriated to the commission; and

(2) money that is transferred to the commission from

trusteed programs within the office of the governor, including:

(A) appropriated money from the Texas Enterprise Fund;

(B) available federal funds; and

(C) money from other appropriate, statutorily authorized funding sources.

Explanation: The change is necessary to clarify funding matters for purposes of the Texas Back to Work Program.

(15) Senate Rule 12.03(4) is suspended to permit the committee in proposed Section 41.01 of the bill to add text on a

matter which is not included in either the house or the senate version of the bill by adding amended Subsections (b), (c), and (e), Article 103.0033, Code of Criminal Procedure, to read as follows:

(b) This article applies only to:

(1) a [each] county with a population of 50,000 or greater; [in this state] and

(2) a [to each] municipality with a population of 100,000 or greater.

(c) Unless granted a waiver under Subsection (h), each county and municipality shall develop and implement a program that complies with the prioritized implementation schedule under Subsection (h). ~~[A county may develop and implement a program that complies with the prioritized implementation schedule under Subsection (h).]~~ A county program must include district, county, and justice courts.

(e) Not later than June 1 of each year, the office shall identify those counties and municipalities that:

(1) have not implemented a program; and

(2) are able [planning] to implement a program before April 1 of the following year.

Explanation: The change is necessary to change the population of counties to which the Office of Court Administration's collection improvement program applies.

(16) Senate Rule 12.03(1) is suspended to permit the committee to alter text which is not in disagreement in proposed Section 43.03 of the bill, added Section 2306.2585(c),

Government Code, to read as follows:

(c) The department may use any available revenue, including legislative appropriations, appropriation transfers from the trustee programs within the office of the governor, including authorized appropriations from the Texas Enterprise Fund, available federal funds, and any other statutorily authorized and appropriate funding sources transferred from the trustee programs within the office of the governor, for the purposes of this section. The department shall solicit and accept gifts and grants for the purposes of this section. The department shall use gifts and grants received for the purposes of this section before using any other revenue.

Explanation: The change is necessary to clarify the funding sources available for purposes of the homeless housing and services program.

(17) Senate Rule 12.03(2) is suspended to permit the committee to omit text which is not in disagreement, Article 57 of the senate engrossment of Senate Bill No. 1 and the corresponding article of the bill as the bill was amended by the house of representatives, relating to the place of business of a retailer for sales tax purposes, that reads:

ARTICLE 57. PLACE OF BUSINESS OF A RETAILER FOR SALES TAX

PURPOSES

SECTION 57.01. Subdivision (3), Subsection (a), Section 321.002, Tax Code, is amended to read as follows:

(3) "Place of business of the retailer" means an established outlet, office, or location operated by the retailer

or the retailer's agent or employee for the purpose of receiving orders for taxable items and includes any location at which three or more orders are received by the retailer during a calendar year. A warehouse, storage yard, or manufacturing plant is not a "place of business of the retailer" unless at least three orders are received by the retailer during the calendar year at the warehouse, storage yard, or manufacturing plant. An outlet, office, facility, or any location that contracts with a retail or commercial business [~~engaged in activities to which this chapter applies~~] to process for that business invoices, purchase orders, [~~or~~] bills of lading, or other equivalent records onto which sales tax is added, including an office operated for the purpose of buying and selling taxable goods to be used or consumed by the retail or commercial business, is not a "place of business of the retailer" if the comptroller determines that the outlet, office, facility, or location functions or exists to avoid the tax imposed by this chapter or to rebate a portion of the tax imposed by this chapter to the contracting business. Notwithstanding any other provision of this subdivision, a kiosk is not a "place of business of the retailer." In this subdivision, "kiosk" means a small stand-alone area or structure that:

(A) is used solely to display merchandise or to submit orders for taxable items from a data entry device, or both;

(B) is located entirely within a location that is a place of business of another retailer, such as a department store or shopping mall; and

(C) at which taxable items are not available for immediate delivery to a customer.

SECTION 57.02. (a) Except as provided by Subsection (b) of this section, this article takes effect October 1, 2011.

(b) If H.B. No. 590, Acts of the 82nd Legislature, Regular Session, 2011, becomes law, this article has no effect.

Explanation: The text is omitted as unnecessary because it largely duplicates Section 1, House Bill No. 590, Acts of the 82nd Legislature, Regular Session, 2011, as effective September 1, 2011.

(18) Senate Rule 12.03(2) is suspended to permit the committee to omit text which is not in disagreement, Article 58 of the senate engrossment of Senate Bill No. 1 and the corresponding article of the bill as the bill was amended by the house of representatives, relating to farm and ranch lands conservation, that reads:

ARTICLE 58. TEXAS FARM AND RANCH LANDS CONSERVATION PROGRAM

SECTION 58.01. Subsection (b), Section 183.059, Natural Resources Code, is amended to read as follows:

(b) To receive a grant from the fund under this subchapter, an applicant who is qualified to be an easement holder under this subchapter must submit an application to the council. The application must:

(1) set out the parties' clear conservation goals consistent with the program;

(2) include a site-specific estimate-of-value appraisal by a licensed appraiser qualified to determine the

market value of the easement; and

~~(3) [demonstrate that the applicant is able to match 50 percent of the amount of the grant being sought, considering that the council may choose to allow a donation of part of the appraised value of the easement to be considered as in-kind matching funds; and~~

~~[(4)]~~ include a memorandum of understanding signed by the landowner and the applicant indicating intent to sell an agricultural conservation easement and containing the terms of the contract for the sale of the easement.

SECTION 58.02. If S.B. No. 1044, Acts of the 82nd Legislature, Regular Session, 2011, becomes law, this article has no effect.

Explanation: The text is omitted as unnecessary because it largely duplicates provisions of Section 3, Senate Bill No. 1044, Acts of the 82nd Legislature, Regular Session, 2011, as effective June 17, 2011.

(19) Senate Rule 12.03(2) is suspended to permit the committee to omit text which is not in disagreement, Section 60.02 of the senate engrossment of Senate Bill No. 1 and the corresponding section of the bill as the bill was amended by the house of representatives, that reads:

SECTION 60.02. Subsection (a), Section 811.012, Government Code, as effective September 1, 2011, is amended to read as follows:

(a) Not later than June 1 of every fifth ~~[each]~~ year, the retirement system shall provide to the comptroller, for the

purpose of assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, the name, address, social security number, and date of birth of each member, retiree, and beneficiary from the retirement system's records.

Explanation: The text is omitted as unnecessary because it duplicates the substance of Section 4, Senate Bill No. 1664, Acts of the 82nd Legislature, Regular Session, 2011, as effective September 1, 2011.

(20) Senate Rule 12.03(4) is suspended to permit the committee in proposed Section 61.02 of the bill to add text on a matter which is not included in either the house or senate version of the bill to read as follows:

SECTION 61.02. Subchapter A, Chapter 30A, Education Code, is amended by adding Section 30A.007 to read as follows:

Sec. 30A.007. LOCAL POLICY ON ELECTRONIC COURSES. (a) A school district or open-enrollment charter school shall adopt a policy that provides district or school students with the opportunity to enroll in electronic courses provided through the state virtual school network. The policy must be consistent with the requirements imposed by Section 26.0031.

(b) For purposes of a policy adopted under Subsection (a), the determination of whether or not an electronic course will meet the needs of a student with a disability shall be made by the student's admission, review, and dismissal committee in a manner consistent with state and federal law, including the Individuals with Disabilities Education Act (20 U.S.C. Section

1400 et seq.) and Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794).

Explanation: The change is necessary to provide for consistent policies for student enrollment through the state virtual school network.

(21) Senate Rule 12.03(4) is suspended to permit the committee in proposed Section 61.03 of the bill to add text on a matter which is not included in either the house or senate version of the bill to read as follows:

SECTION 61.03. Subchapter C, Chapter 30A, Education Code, is amended by adding Section 30A.1021 to read as follows:

Sec. 30A.1021. PUBLIC ACCESS TO USER COMMENTS REGARDING ELECTRONIC COURSES. (a) The administering authority shall provide students who have completed or withdrawn from electronic courses offered through the virtual school network and their parents with a mechanism for providing comments regarding the courses.

(b) The mechanism required by Subsection (a) must include a quantitative rating system and a list of verbal descriptors that a student or parent may select as appropriate.

(c) The administering authority shall provide public access to the comments submitted by students and parents under this section. The comments must be in a format that permits a person to sort the comments by teacher, electronic course, and provider school district or school.

Explanation: The change is necessary to gather and disseminate information on students' and parents' experiences

with the state virtual school network.

(22) Senate Rule 12.03(4) is suspended to permit the committee in proposed Section 61.04 of the bill to add text on a matter which is not included in either the house or senate version of the bill to read as follows:

SECTION 61.04. Section 30A.104, Education Code, is amended to read as follows:

Sec. 30A.104. COURSE ELIGIBILITY IN GENERAL. (a) A course offered through the state virtual school network must:

(1) be in a specific subject that is part of the required curriculum under Section 28.002(a);

(2) be aligned with the essential knowledge and skills identified under Section 28.002(c) for a grade level at or above grade level three; and

(3) be the equivalent in instructional rigor and scope to a course that is provided in a traditional classroom setting during:

(A) a semester of 90 instructional days; and

(B) a school day that meets the minimum length of a school day required under Section 25.082.

(b) If the essential knowledge and skills with which an approved course is aligned in accordance with Subsection (a)(2) are modified, the provider school district or school must be provided the same time period to revise the course to achieve alignment with the modified essential knowledge and skills as is provided for the modification of a course provided in a traditional classroom setting.

Explanation: The change is necessary for the administration of changes in essential knowledge and skills applicable to an approved state virtual school network course.

(23) Senate Rule 12.03(4) is suspended to permit the committee in proposed Sections 61.07, 61.08, and 61.09 of the bill to add text on a matter which is not included in either the house or senate version of the bill to read as follows:

SECTION 61.07. Subchapter D, Chapter 30A, Education Code, is amended by adding Section 30A.153 to read as follows:

Sec. 30A.153. FOUNDATION SCHOOL PROGRAM FUNDING. (a) A school district or open-enrollment charter school in which a student is enrolled is entitled to funding under Chapter 42 for the student's enrollment in an electronic course offered through the state virtual school network in the same manner that the district or school is entitled to funding for the student's enrollment in courses provided in a traditional classroom setting, provided that the student successfully completes the electronic course.

(b) The commissioner, after considering comments from school district and open-enrollment charter school representatives, shall adopt a standard agreement that governs payment of funds and other matters relating to a student's enrollment in an electronic course offered through the state virtual school network. The agreement may not require a school district or open-enrollment charter school to pay the provider the full amount until the student has successfully completed the electronic course.

(c) A school district or open-enrollment charter school shall use the standard agreement adopted under Subsection (b) unless:

(1) the district or school requests from the commissioner permission to modify the standard agreement; and

(2) the commissioner authorizes the modification.

(d) The commissioner shall adopt rules necessary to implement this section, including rules regarding attendance accounting.

SECTION 61.08. Subsection (a), Section 42.302, Education Code, is amended to read as follows:

(a) Each school district is guaranteed a specified amount per weighted student in state and local funds for each cent of tax effort over that required for the district's local fund assignment up to the maximum level specified in this subchapter. The amount of state support, subject only to the maximum amount under Section 42.303, is determined by the formula:

$$GYA = (GL \times WADA \times DTR \times 100) - LR$$

where:

"GYA" is the guaranteed yield amount of state funds to be allocated to the district;

"GL" is the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort, which is an amount described by Subsection (a-1) or a greater amount for any year provided by appropriation;

"WADA" is the number of students in weighted average daily

attendance, which is calculated by dividing the sum of the school district's allotments under Subchapters B and C, less any allotment to the district for transportation, any allotment under Section 42.158[~~, 42.159,~~] or 42.160, and 50 percent of the adjustment under Section 42.102, by the basic allotment for the applicable year;

"DTR" is the district enrichment tax rate of the school district, which is determined by subtracting the amounts specified by Subsection (b) from the total amount of maintenance and operations taxes collected by the school district for the applicable school year and dividing the difference by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521, divided by 100; and

"LR" is the local revenue, which is determined by multiplying "DTR" by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521, divided by 100.

SECTION 61.09. Section 42.159, Education Code, is repealed.

Explanation: The changes are necessary to clarify issues regarding funding for students enrolled in electronic courses offered through the state virtual school network.

(24) Senate Rule 12.03(4) is suspended to permit the committee in proposed Article 66A of the bill to add text on a matter which is not included in either the house or senate

version of the bill to read as follows:

ARTICLE 66A. GUARDIANSHIP MATTERS AND PROCEEDINGS: AMENDMENTS
TO ESTATES CODE

SECTION 66A.01. Subpart B, Part 2, Subtitle Y, Title 3, Estates Code, as effective January 1, 2014, is amended by adding Section 619 to read as follows:

Sec. 619. REVIEW OF TRANSFERRED GUARDIANSHIP. Not later than the 90th day after the date the transfer of the guardianship takes effect under Section 616, the court to which the guardianship was transferred shall hold a hearing to consider modifying the rights, duties, and powers of the guardian or any other provisions of the transferred guardianship.

SECTION 66A.02. Section 1253.051, Estates Code, as effective January 1, 2014, is amended to read as follows:

Sec. 1253.051. APPLICATION FOR RECEIPT AND ACCEPTANCE OF FOREIGN GUARDIANSHIP. A guardian appointed by a foreign court to represent an incapacitated person who is residing in this state or intends to move to this state may file an application with a court in which the ward resides or intends to reside to have the guardianship transferred to the court. The application must have attached a certified copy of all papers of the guardianship filed and recorded in the foreign court.

SECTION 66A.03. Section 1253.053, Estates Code, as effective January 1, 2014, is amended by amending Subsection (a) and adding Subsection (f) to read as follows:

(a) The [~~On the court's own motion or on the motion of the ward or any interested person, the~~] court shall hold a hearing

to:

(1) consider an application for receipt and acceptance of a foreign guardianship under this subchapter; and

(2) consider modifying the administrative procedures or requirements of the proposed transferred guardianship in accordance with local and state law.

(f) At the time of granting an application for receipt and acceptance of a foreign guardianship, the court may also modify the administrative procedures or requirements of the transferred guardianship in accordance with local and state law.

SECTION 66A.04. Subsection (b), Section 1253.102, Estates Code, as effective January 1, 2014, is amended to read as follows:

(b) In making a determination under Subsection (a), the court may consider:

(1) the interests of justice;

(2) the best interests of the ward or proposed ward;

~~[and]~~

(3) the convenience of the parties; and

(4) the preference of the ward or proposed ward, if the ward or proposed ward is 12 years of age or older.

SECTION 66A.05. Chapter 1253, Estates Code, as effective January 1, 2014, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. DETERMINATION OF MOST APPROPRIATE FORUM FOR
CERTAIN GUARDIANSHIP PROCEEDINGS

Sec. 1253.151. DETERMINATION OF ACQUISITION OF

JURISDICTION IN THIS STATE DUE TO UNJUSTIFIABLE CONDUCT. If at any time a court of this state determines that it acquired jurisdiction of a proceeding for the appointment of a guardian of the person or estate, or both, of a ward or proposed ward because of unjustifiable conduct, the court may:

(1) decline to exercise jurisdiction;

(2) exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to ensure the health, safety, and welfare of the ward or proposed ward or the protection of the ward's or proposed ward's property or prevent a repetition of the unjustifiable conduct, including staying the proceeding until a petition for the appointment of a guardian or issuance of a protective order is filed in a court of another state having jurisdiction; or

(3) continue to exercise jurisdiction after considering:

(A) the extent to which the ward or proposed ward and all persons required to be notified of the proceedings have acquiesced in the exercise of the court's jurisdiction;

(B) whether the court of this state is a more appropriate forum than the court of any other state after considering the factors described by Section 1253.102(b); and

(C) whether the court of any other state would have jurisdiction under the factual circumstances of the matter.

Sec. 1253.152. ASSESSMENT OF EXPENSES AGAINST PARTY.

(a) If a court of this state determines that it acquired jurisdiction of a proceeding for the appointment of a guardian of

the person or estate, or both, of a ward or proposed ward because a party seeking to invoke the court's jurisdiction engaged in unjustifiable conduct, the court may assess against that party necessary and reasonable expenses, including attorney's fees, investigative fees, court costs, communication expenses, witness fees and expenses, and travel expenses.

(b) The court may not assess fees, costs, or expenses of any kind against this state or a governmental subdivision, agency, or instrumentality of this state unless authorized by other law.

SECTION 66A.06. The following are repealed:

(1) Section 1253.054, Estates Code, as effective January 1, 2014;

(2) the changes in law made by Sections 66.05 and 66.06 of this Act to Sections 892 and 894, Texas Probate Code; and

(3) Section 895, Texas Probate Code, as added by Section 66.07 of this Act.

SECTION 66A.07. This article takes effect January 1, 2014.

Explanation: The change is necessary to conform the provisions of the Estates Code, as effective January 1, 2014, to the changes in law to be made by proposed Article 66 of the bill to the Texas Probate Code.

(25) Senate Rule 12.03(4) is suspended to permit the committee in proposed Article 71 of the bill to add text on a matter which is not included in either the house or senate version of the bill to read as follows:

ARTICLE 71. CHRONIC HEALTH CONDITIONS SERVICES MEDICAID WAIVER PROGRAM

SECTION 71.01. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.0226 to read as follows:

Sec. 531.0226. CHRONIC HEALTH CONDITIONS SERVICES MEDICAID WAIVER PROGRAM. (a) If feasible and cost-effective, the commission may apply for a waiver from the federal Centers for Medicare and Medicaid Services or another appropriate federal agency to more efficiently leverage the use of state and local funds in order to maximize the receipt of federal Medicaid matching funds by providing benefits under the Medicaid program to individuals who:

(1) meet established income and other eligibility criteria; and

(2) are eligible to receive services through the county for chronic health conditions.

(b) In establishing the waiver program under this section, the commission shall:

(1) ensure that the state is a prudent purchaser of the health care services that are needed for the individuals described by Subsection (a);

(2) solicit broad-based input from interested persons;

(3) ensure that the benefits received by an individual through the county are not reduced once the individual is enrolled in the waiver program; and

(4) employ the use of intergovernmental transfers

and other procedures to maximize the receipt of federal Medicaid matching funds.

Explanation: The change is necessary to provide for prudent purchasing of services for chronic health conditions and to maximize receipt of federal Medicaid matching funds.

(26) Senate Rule 12.03(4) is suspended to permit the committee in proposed Article 74 of the bill to add text on a matter which is not included in either the house or the senate version of the bill to read as follows:

ARTICLE 74. OPERATION AND ADMINISTRATION OF THE TEXAS DEPARTMENT
OF HOUSING AND COMMUNITY AFFAIRS

SECTION 74.01. Section 2306.022, Government Code, is amended to read as follows:

Sec. 2306.022. APPLICATION OF SUNSET ACT. The Texas Department of Housing and Community Affairs is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2013 [~~2011~~].

SECTION 74.02. Subsections (d-1) and (d-2), Section 2306.111, Government Code, are amended to read as follows:

(d-1) In allocating low income housing tax credit commitments under Subchapter DD, the department shall, before applying the regional allocation formula prescribed by Section 2306.1115, set aside for at-risk developments, as defined by Section 2306.6702, not less than the minimum amount of housing tax credits required under Section 2306.6714. Funds or credits are not required to be allocated according to the regional

allocation formula under Subsection (d) if:

(1) the funds or credits are reserved for contract-for-deed conversions or for set-asides mandated by state or federal law and each contract-for-deed allocation or set-aside allocation equals not more than 10 percent of the total allocation of funds or credits for the applicable program;

(2) the funds or credits are allocated by the department primarily to serve persons with disabilities; or

(3) the funds are housing trust funds administered by the department under Sections 2306.201-2306.206 that are not otherwise required to be set aside under state or federal law and do not exceed \$3 million for each programmed activity during each application cycle.

(d-2) In allocating low income housing tax credit commitments under Subchapter DD, the department shall allocate five percent of the housing tax credits in each application cycle to developments that receive federal financial assistance through the Texas Rural Development Office of the United States Department of Agriculture. Any funds allocated to developments under this subsection that involve rehabilitation must come from the funds set aside for at-risk developments under Section 2306.6714 and any additional funds set aside for those developments under Subsection (d-1). This subsection does not apply to a development financed wholly or partly under Section 538 of the Housing Act of 1949 (42 U.S.C. Section 1490p-2) unless the development involves the rehabilitation of an existing property that has received and will continue to receive as part

of the financing of the development federal financial assistance provided under Section 515 of the Housing Act of 1949 (42 U.S.C. Section 1485).

SECTION 74.03. Section 2306.67022, Government Code, is amended to read as follows:

Sec. 2306.67022. QUALIFIED ALLOCATION PLAN; MANUAL. At least biennially, the [The] board [~~annually~~] shall adopt a qualified allocation plan and a corresponding manual to provide information regarding the administration of and eligibility for the low income housing tax credit program. The board may adopt the plan and manual annually, as considered appropriate by the board.

SECTION 74.04. Subsections (b) and (f), Section 2306.6711, Government Code, are amended to read as follows:

(b) Not later than the deadline specified in the qualified allocation plan, the board shall issue commitments for available housing tax credits based on the application evaluation process provided by Section 2306.6710. The board may not allocate to an applicant housing tax credits in any unnecessary amount, as determined by the department's underwriting policy and by federal law, and in any event may not allocate to the applicant housing tax credits in an amount greater than \$3 [~~\$2~~] million in a single application round or to an individual development more than \$2 million in a single application round.

(f) The board may allocate housing tax credits to more than one development in a single community, as defined by

department rule, in the same calendar year only if the developments are or will be located more than two [~~one~~] linear miles [~~mile~~] apart. This subsection applies only to communities contained within counties with populations exceeding one million.

SECTION 74.05. Subsections (a), (b), and (c), Section 2306.6724, Government Code, are amended to read as follows:

(a) Regardless of whether the board will adopt the plan annually or biennially [~~Not later than September 30 of each year~~], the department, not later than September 30 of the year preceding the year in which the new plan is proposed for use, shall prepare and submit to the board for adoption any proposed [~~the~~] qualified allocation plan required by federal law for use by the department in setting criteria and priorities for the allocation of tax credits under the low income housing tax credit program.

(b) Regardless of whether the board has adopted the plan annually or biennially, the [~~The~~] board shall [~~adopt and~~] submit to the governor any proposed [~~the~~] qualified allocation plan not later than November 15 of the year preceding the year in which the new plan is proposed for use.

[~~(c)~~] The governor shall approve, reject, or modify and approve the proposed qualified allocation plan not later than December 1.

SECTION 74.06. Section 1201.104, Occupations Code, is amended by amending Subsections (a), (g), and (h) and adding Subsections (a-1), (a-2), (a-3), and (a-4) to read as follows:

(a) Except as provided by Subsection (g) [~~(e)~~], as a requirement for a manufacturer's, retailer's, broker's, installer's, salvage rebuilder's, or salesperson's license, a person who was not licensed or registered with the department or a predecessor agency on September 1, 1987, must, not more than 12 months before applying for the person's first license under this chapter, attend and successfully complete eight [~~20~~] hours of instruction in the law, including instruction in consumer protection regulations.

(a-1) If the applicant is not an individual, the applicant must have at least one related person who satisfies the requirements of Subsection (a) [~~meets this requirement~~]. If that applicant is applying for a retailer's license, the related person must be a management official who satisfies the requirements of Subsections (a) and (a-2) at each retail location operated by the applicant.

(a-2) An applicant for a retailer's license must complete four hours of specialized instruction relevant to the sale, exchange, and lease-purchase of manufactured homes. The instruction under this subsection is in addition to the instruction required under Subsection (a).

(a-3) An applicant for an installer's license must complete four hours of specialized instruction relevant to the installation of manufactured homes. The instruction under this subsection is in addition to the instruction required under Subsection (a).

(a-4) An applicant for a joint installer-retailer

license must comply with Subsections (a-2) and (a-3), for a total of eight hours of specialized instruction. The instruction under this subsection is in addition to the instruction required under Subsection (a).

(g) Subsections [~~Subsection~~] (a), (a-2), (a-3), and (a-4) do [~~does~~] not apply to a license holder who applies:

(1) for a license for an additional business location; or

(2) to renew or reinstate a license.

(h) An examination must be a requirement of successful completion of any initial required course of instruction under this section. The period needed to complete an examination under this subsection may not be used to satisfy the minimum education requirements under Subsection (a), (a-2), (a-3), or (a-4).

SECTION 74.07. Section 1201.303, Occupations Code, is amended by amending Subsection (b) and adding Subsections (c), (d), (e), (f), and (g) to read as follows:

(b) The department shall establish an installation inspection program in which at least 75 [~~25~~] percent of installed manufactured homes are inspected on a sample basis for compliance with the standards and rules adopted and orders issued by the director. The program must place priority on inspecting multisection homes and homes installed in Wind Zone II counties.

(c) On or after January 1, 2015, the director by rule shall establish a third-party installation inspection program to supplement the inspections of the department if the department is not able to inspect at least 75 percent of manufactured homes

installed in each of the calendar years 2012, 2013, and 2014.

(d) The third-party installation inspection program established under Subsection (c) must:

(1) establish qualifications for third-party inspectors to participate in the program;

(2) require third-party inspectors to register with the department before participating in the program;

(3) establish a biennial registration and renewal process for third-party inspectors;

(4) require the list of registered third-party inspectors to be posted on the department's Internet website;

(5) establish clear processes governing inspection fees and payment to third-party inspectors;

(6) establish the maximum inspection fee that may be charged to a consumer;

(7) require a third-party inspection to occur not later than the 14th day after the date of installation of the manufactured home;

(8) establish a process for a retailer or broker to contract, as part of the sale of a new or used manufactured home, with an independent third-party inspector to inspect the installation of the home;

(9) establish a process for an installer to schedule an inspection for each consumer-to-consumer sale where a home is reinstalled;

(10) if a violation is noted in an inspection, require the installer to:

(A) remedy the violations noted;

(B) have the home reinspected at the installer's expense; and

(C) certify to the department that all violations have been corrected;

(11) require an inspector to report inspection results to the retailer, installer, and the department;

(12) require all persons receiving inspection results under Subdivision (11) to maintain a record of the results at least until the end of the installation warranty period;

(13) authorize the department to charge a filing fee and an inspection fee for third-party inspections;

(14) authorize the department to continue to conduct no-charge complaint inspections under Section 1201.355 on request, but only after an initial installation inspection is completed;

(15) establish procedures to revoke the registration of inspectors who fail to comply with rules adopted under this section; and

(16) require the department to notify the relevant state agency if the department revokes an inspector registration based on a violation that is relevant to a license issued to the applicable person by another state agency.

(e) Not later than January 1, 2015, the department shall submit to the Legislative Budget Board, the Governor's Office of Budget, Planning, and Policy, and the standing committee of each

house of the legislature having primary jurisdiction over housing a report concerning whether the department inspected at least 75 percent of manufactured homes installed in each of the calendar years 2012, 2013, and 2014.

(f) Not later than December 1, 2015, the director shall adopt rules as necessary to implement Subsections (c) and (d) if the department did not inspect at least 75 percent of manufactured homes installed in each of the calendar years 2012, 2013, and 2014. Not later than January 1, 2016, the department shall begin registering third-party inspectors under Subsections (c) and (d) if the department inspections did not occur as described by this subsection.

(g) If the department is not required to establish a third-party installation inspection program as provided by Subsection (c), Subsections (c), (d), (e), and (f) and this subsection expire September 1, 2016.

SECTION 74.08. The changes in law made by this article to Section 2306.6711, Government Code, apply only to an application for low income housing tax credits that is submitted to the Texas Department of Housing and Community Affairs during an application cycle that begins on or after the effective date of this Act. An application that is submitted during an application cycle that began before the effective date of this Act is governed by the law in effect at the time the application cycle began, and the former law is continued in effect for that purpose.

SECTION 74.09. The change in law made by this article in

amending Section 1201.104, Occupations Code, applies only to an application for a license filed with the executive director of the manufactured housing division of the Texas Department of Housing and Community Affairs on or after the effective date of this article. An application for a license filed before that date is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

Explanation: The changes are necessary to provide for the administration and Sunset Advisory Commission review of the Texas Department of Housing and Community Affairs, including the department's activities related to certain housing tax credits and the regulation of manufactured housing and mobile homes.

(27) Senate Rule 12.03(4) is suspended to permit the committee in proposed Article 79A of the bill to add text on a matter which is not included in either the house or senate version of the bill to read as follows:

ARTICLE 79A. CONFIDENTIALITY OF CERTAIN PEACE OFFICER VOUCHERS

SECTION 79A.01. Subchapter H, Chapter 660, Government Code, is amended by adding Section 660.2035 to read as follows:

Sec. 660.2035. CONFIDENTIALITY OF CERTAIN PEACE OFFICER VOUCHERS; QUARTERLY SUMMARIES. (a) A voucher or other expense reimbursement form, and any receipt or other document supporting that voucher or other expense reimbursement form, that is submitted or to be submitted under Section 660.027 is confidential under Chapter 552 for a period of 18 months following the date of travel if the voucher or other expense

reimbursement form is submitted or is to be submitted for payment or reimbursement of a travel expense incurred by a peace officer while assigned to provide protection for an elected official of this state or a member of the elected official's family.

(b) At the expiration of the period provided by Subsection (a), the voucher or other expense reimbursement form and any supporting documents become subject to disclosure under Chapter 552 and are not excepted from public disclosure or confidential under that chapter or other law, except that the following provisions of that chapter apply to the information in the voucher, reimbursement form, or supporting documents:

- (1) Section 552.117;
- (2) Section 552.1175;
- (3) Section 552.119;
- (4) Section 552.136;
- (5) Section 552.137;
- (6) Section 552.147; and
- (7) Section 552.151.

(c) A state agency that submits vouchers or other expense reimbursement forms described by Subsection (a) shall prepare quarterly a summary of the amounts paid or reimbursed by the comptroller based on those vouchers or other expense reimbursement forms. Each summary must:

(1) list separately for each elected official the final travel destinations and the total amounts paid or reimbursed in connection with protection provided to each elected official and that elected official's family members; and

(2) itemize the amounts listed under Subdivision (1) by the categories of travel, fuel, food, lodging or rent, and other operating expenses.

(d) The itemized amounts under Subsection (c)(2) must equal the total amount listed under Subsection (c)(1) for each elected official for the applicable quarter.

(e) A summary prepared under Subsection (c) may not include:

(1) the number or names of the peace officers or elected official's family members identified in the vouchers, expense reimbursement forms, or supporting documents;

(2) the name of any business or vendor identified in the vouchers, expense reimbursement forms, or supporting documents; or

(3) the locations in which expenses were incurred, other than the city, state, and country in which incurred.

(f) A summary prepared under Subsection (c) is subject to disclosure under Chapter 552, except as otherwise excepted from disclosure under that chapter.

(g) A state agency that receives a request for information described by Subsection (a) during the period provided by that subsection may withhold that information without the necessity of requesting a decision from the attorney general under Subchapter G, Chapter 552. The Supreme Court of Texas has original and exclusive mandamus jurisdiction over any dispute regarding the construction, applicability, or constitutionality of Subsection (a). The supreme court may

appoint a master to assist in the resolution of any such dispute as provided by Rule 171, Texas Rules of Civil Procedure, and may adopt additional rules as necessary to govern the procedures for the resolution of any such dispute.

SECTION 79A.02. Section 660.2035, Government Code, as added by this article, applies according to its terms in relation to travel vouchers or other reimbursement form and any supporting documents that pertain to expenses incurred or paid on or after the effective date of this article.

Explanation: The changes are necessary to provide for confidentiality and disclosure requirements for vouchers submitted for expenses incurred by a peace officer while assigned to provide protection for an elected official of this state or a member of the elected official's family.

President of the Senate

I hereby certify that the above Resolution was adopted by the Senate on June 28, 2011, by the following vote: Yeas 21, Nays 9.

Secretary of the Senate