

BILL ANALYSIS

Senate Research Center

S.B. 1536
By: Van de Putte
Veteran Affairs & Military Installations
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1536 consolidates current duplicative definitions, moves much of Chapter 437, Government Code into a new Chapter 431 and modernizes the statutory language.

As proposed, S.B. 1536 amends current law relating to the Texas military; imposing criminal penalties; authorizing fees.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the governor in SECTION 1.01 (Sections 437.004 and 437.303, Government Code) and SECTION 1.02 (Section 437.355, Government Code) of this bill.

Rulemaking authority is expressly granted to the adjutant general in SECTION 1.01 (Sections 437.052, 437.053, 437.110, 437.112, 437.151, 437.220, 437.225, and 437.303, Government Code) and SECTION 1.02 (Sections 431.134 and 437.355, Government Code) of this bill.

Rulemaking authority is expressly granted to the Texas Military Department in SECTION 1.01 (Sections 437.105 and 437.115, Government Code) of this bill.

Rulemaking authority is expressly granted to the comptroller of public affairs of the State of Texas in SECTION 1.01 (Section 437.111, Government Code) of this bill.

Rulemaking authority previously granted to the adjutant general is rescinded in SECTION 1.02 (Section 431.134, Government Code) and SECTION 4.01 (Sections 431.0175, 431.028, 431.032, 431.035, 431.040, and 431.0821, Government Code) of this bill.

Rulemaking authority previously granted to the governor is rescinded in SECTION 4.01 (Section 431.054, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1.01. Amends Subtitle C, Title 4, Government Code, by adding Chapter 437, as follows:

CHAPTER 437. TEXAS MILITARY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 437.001. DEFINITIONS. Defines "active military service," "adjutant general," "department," "employee," "employer," "executive director," "military duty," "service member," "state active duty," "state military forces," "state training and other duty," "temporary state employee," "Texas Military Department," "Texas military forces," "Texas National Guard," "Texas State Guard," "unit," and "unit fund" for this chapter.

Sec. 437.0011. REFERENCE IN OTHER LAW. Provides that a reference in other law to the adjutant general's department means the Texas Military Department.

Sec. 437.002. COMMANDER-IN-CHIEF. (a) Provides that the governor is the commander-in-chief of the Texas military forces, except any portion of those forces in the service of the United States. Provides that the governor has full control and authority over all matters relating to the Texas military forces, including organization, equipment, and discipline.

(b) Requires the military commander of the Texas military forces (adjutant general), if the governor is unable to perform the duties of commander-in-chief, to command the Texas military forces, unless the state constitution or other state law requires the lieutenant governor or the president of the senate to perform the duties of governor.

Sec. 437.003. GOVERNOR'S MILITARY APPOINTMENTS. (a) Requires the governor, with the advice and consent of the senate, to appoint an adjutant general to a two-year term expiring February 1 of each even-numbered year. Provides that the adjutant general is responsible for leading and managing the Texas military forces. Provides that the adjutant general is subordinate only to the governor in matters pertaining to the Texas military forces. Provides that the adjutant general's rank is assigned at the discretion of the governor and is prohibited from exceeding lieutenant general. Provides that federal recognition is at the rank authorized by the National Guard Bureau. Authorizes the adjutant general to be referred to as the commanding general of the Texas military forces.

(b) Requires the governor, on recommendation of the adjutant general, to appoint a deputy adjutant general for army, a deputy adjutant general for air, and the commander of the Texas State Guard. Provides that the deputy adjutants general and commander serve until replaced. Requires a service member, to be qualified for appointment as a deputy adjutant general or commander, to have the qualifications required for appointment as adjutant general.

(c) Requires the governor to appoint, commission, and assign the Texas State Guard general officers. Authorizes the governor to remove or reassign an officer. Requires a service member, to be eligible for appointment as a general officer, to have been a federally recognized officer of not less than field grade of the Texas National Guard or a regular or reserve component of the United States military or served at least 15 years of combined service as a commissioned officer in the Texas military forces or a regular or reserve component of the United States military and served at least three years as a commissioned officer in the Texas State Guard.

(d) Authorizes the governor to delegate the powers granted by Subsection (c) to the adjutant general.

Sec. 437.004. REGULATING TEXAS MILITARY FORCES. (a) Requires the governor to make and publish rules, according to existing federal and state law, to govern the Texas military forces. Requires the rules to address general orders and forms for the performance of duties of service members on military duty, including provisions governing courts-martial.

(b) Authorizes the governor to reorganize and provide rules relating to the organization of any portion of the Texas National Guard, Texas State Guard, emergency militia, or other military force organized under state law.

(c) Authorizes the governor to obtain from the United States government the arms, equipment, munitions, or other military supplies to which the state is entitled for use by the Texas military forces.

(d) Requires the governor, as the governor determines to be in this state's best interest, to designate the locations for storage of arms, equipment, munitions, or other military property owned by or under the control of this state.

(e) Authorizes the governor to delegate the powers granted by this section to the adjutant general.

Sec. 437.005. **AUTHORITY FOR STATE ACTIVE DUTY, STATE TRAINING, AND OTHER DUTY.** (a) Authorizes the governor to activate all or part of the Texas military forces to state active duty or for state training and other duty. Authorizes the governor to delegate all or part of the authority granted by this section to the adjutant general.

(b) Authorizes the adjutant general, on delegation of the authority by the governor, to order all or part of the Texas military forces to state training and other duty if funding has been provided in the General Appropriations Act or volunteer resources are available.

(c) Authorizes the adjutant general, on delegation of the authority by the governor, to order all or part of the Texas military forces to state training and other duty if requested by a federal, state, or local governmental entity and the entity authorizes reimbursement of the costs to this state.

(d) Provides that a service member called to state active duty or to state training and other duty has the rights, privileges, duties, functions, and authorities conferred or imposed by state law.

Sec. 437.006. **STATE OF INSURRECTION.** Authorizes the governor by proclamation to declare any portion of this state where the Texas military forces are serving in aid of the civil authority to be in a state of insurrection if the governor determines that law and order will be promoted by the declaration.

Sec. 437.007. **OFFICERS.** (a) Requires the governor to appoint and commission officers of the Texas National Guard. Requires a service member, to be eligible for appointment, to be qualified under United States law and regulations.

(b) Requires the adjutant general to appoint and commission officers, other than a general officer, in the Texas State Guard. Requires a service member, to be eligible for appointment, to be qualified under state guard rules and be recommended for appointment by the commander of the state guard.

(c) Requires an officer appointed under this section to take and subscribe the official oath.

Sec. 437.008. **ENLISTMENT AND APPOINTMENT.** (a) Provides that federal law prescribes the terms and the qualifications and requirements for enlistment and appointment in the Texas National Guard. Authorizes the governor and legislature to prescribe additional terms, qualifications, and requirements that do not conflict with federal law.

(b) Provides that enlistment in the Texas State Guard is prescribed by Subchapter G.

Sec. 437.009. **MILITARY FACILITIES PROJECTS: MATCHING FEDERAL FUNDS.** Authorizes the governor, if the governor, after consulting with the adjutant general, determines that the state is eligible for federal matching funds for projects at military facilities in this state, to direct that money appropriated for another purpose be used to obtain the federal matching funds if the appropriation authorizes the money to be used for that purpose.

SUBCHAPTER B. TEXAS MILITARY DEPARTMENT

Sec. 437.051. **SUNSET PROVISION.** Provides that the Texas Military Department (TMD) is subject to Chapter 325 (Sunset Law). Provides that, unless continued in

existence as provided by that chapter, TMD is abolished and this subchapter expires September 1, 2019.

Sec. 437.052. ADJUTANT GENERAL: JURISDICTION, DIVISION OF RESPONSIBILITIES, AND QUALIFICATIONS. (a) Provides that the adjutant general exercises the jurisdiction and powers conferred by this subtitle. Provides that the adjutant general is the governing officer, policy maker, and head of TMD.

(b) Requires the adjutant general to adopt and implement rules or policies that clearly separate the adjutant general's responsibilities from the administrative responsibilities of TMD's executive director and staff.

(c) Requires a service member, to be eligible for appointment as adjutant general, to:

(1) at the time of appointment, be serving as a federally recognized officer of not less than colonel in the Texas National Guard;

(2) have previously served on active duty or active duty for training with the United States Army or Air Force;

(3) meet for the year the appointment is made the submission requirements of the General Officer Federal Recognition Board or its successor; and

(4) have completed at least 15 years of service as a federally recognized reserve or active duty commissioned officer with an active unit of the United States Army or Air Force, the National Guard, or the Texas National Guard, including at least five years with the Texas National Guard.

(d) Requires the appointment of the adjutant general to be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 437.053. ADJUTANT GENERAL: DUTIES. Requires the adjutant general to:

(1) perform duties assigned by the governor relating to the military affairs of this state;

(2) assume responsibility for the overall leadership, management, accountability, and operations of the Texas military forces, including the transportation of troops, munitions, military equipment, and property in this state;

(3) oversee the preparation of returns and reports required of this state by the United States;

(4) maintain a register of all officers of the Texas military forces;

(5) publish at state expense, when necessary, state military law and rules;

(6) make available annual reports concerning the Texas military forces;

(7) establish reasonable and necessary fees for the administration of this subtitle;

(8) employ and arm, as the adjutant general determines appropriate, persons licensed under Title 10 (Occupations Related to Law Enforcement and Security), Occupations Code, to protect property that is under the adjutant general's authority and to satisfy applicable security requirements;

(9) define and prescribe the kind and amount of supplies, including operational munitions for use in this state, to be purchased for the Texas military forces;

(10) prescribe general rules for the maintenance of supplies and for the transportation and distribution of supplies from the place of purchase to camps, stations, companies, or other necessary places of safekeeping;

(11) have supplies, whether the property of the United States or this state, properly cared for and kept in good order and ready for use; and

(12) as the adjutant general determines appropriate, sell or destroy property and supplies or exchange property and supplies for other military property and supplies.

Sec. 437.0531. **EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT.** Requires the adjutant general to adopt a written policy statement to implement a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. Requires the policy statement to include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that comply with Chapter 21 (Employment Discrimination), Labor Code;

(2) a comprehensive analysis of TMD's workforce that meets federal and state laws, rules, and regulations and instructions directly adopted from those laws, rules, and regulations;

(3) procedures for determining the extent of underuse in TMD's workforce of persons for whom federal or state laws, rules, and regulations and instructions directly adopted from those laws, rules, and regulations encourage a more equitable balance; and

(4) reasonable methods to appropriately address the areas of underuse described in Subdivision (3).

Sec. 437.054. **ADJUTANT GENERAL: GENERAL POWERS.** (a) Provides that the adjutant general is the decision-making authority on all matters concerning the location and maintenance of military forces and facilities in this state. Authorizes the adjutant general to set priorities for the construction, renovation, repair, and maintenance of Texas military forces armories, facilities, and improvements owned or leased by this state. Provides that the adjutant general in this capacity is a public authority and a body politic and corporate and has all powers necessary for the acquisition, construction, rental, control, maintenance, operation, and disposition of Texas military forces facilities and real property and all associated property and equipment.

(b) Authorizes the adjutant general to execute a cooperative agreement with the National Guard Bureau and an interagency military agreement with a federal, state, or local governmental or quasi-governmental agency.

(c) Authorizes the adjutant general to delegate the authority granted under this section in whole or in part.

Sec. 437.055. **SEAL.** Provides that the seal of the adjutant general consists of a five-pointed star with "Adjutant General, State of Texas" around the margin.

Sec. 437.056. **MANDATORY TRAINING FOR ADJUTANT GENERAL.** (a) Requires the adjutant general, before the adjutant general is authorized to assume the duties of the office and before the adjutant general may be confirmed by the senate, to complete at least one course of the training program established under this section.

(b) Requires a training program established under this section to provide information to the adjutant general regarding:

- (1) this chapter;
- (2) the federal and state programs operated by TMD;
- (3) the federal and state roles and functions of TMD;
- (4) the rules of TMD, with an emphasis on disciplinary and investigatory authority rules;
- (5) the current budget for TMD, with emphasis on state and federal funds;
- (6) the results of the most recent formal federal and state audits of TMD;
- (7) the requirements of Chapter 552 (Public Information) and the federal Freedom of Information Act (5 U.S.C. Section 552);
- (8) the requirements of the conflict-of-interest laws and other laws relating to public officials;
- (9) any applicable ethics policies adopted by TMD or the Texas Ethics Commission; and
- (10) the requirements and development of the Master Cooperative Agreement between this state and the federal government.

Sec. 437.057. DEPUTY ADJUTANTS GENERAL. (a) Provides that a deputy adjutant general has the rank prescribed by the governor, not to exceed the grade authorized for federal recognition in the position. Prohibits a deputy adjutant general from being promoted to a rank higher than that of the adjutant general. Provides that a deputy adjutant general is entitled to the rights, privileges, amenities, and immunities granted officers of that rank in the Texas National Guard. Authorizes a deputy adjutant general to be removed from office by the governor.

(b) Requires a deputy adjutant general to assist the adjutant general by performing assigned duties. Requires the deputy adjutant general who is senior in rank, including tenure in that position and grade, if the adjutant general is dead, absent, or unable to act, to perform the duties of the adjutant general.

(c) Requires each deputy adjutant general to complete the training required of the adjutant general as prescribed by Section 437.056 not later than the 60th day after the date of appointment.

Sec. 437.058. GENERAL OFFICERS. (a) Authorizes the adjutant general to appoint as general officers an assistant deputy adjutant general for army, an assistant deputy adjutant general for air, an assistant deputy adjutant general for homeland security, and an assistant deputy adjutant general for government affairs.

(b) Prohibits a general officer from being promoted to a rank higher than that of the adjutant general.

(c) Provides that a general officer appointed under this section is responsible to and serves at the pleasure of the adjutant general.

(d) Requires the assistant deputy adjutant general for the army to support the deputy adjutant general for the army, represent the command staff at events as needed, and manage the activities assigned by the adjutant general or the deputy adjutant general for the army.

(e) Requires the assistant deputy adjutant general for the Army National Guard or the Air National Guard, as determined by the adjutant general, to:

(1) coordinate with other state agencies in matters pertaining to homeland security to ensure state emergency services are provided and organized to support the state operations center; and

(2) coordinate homeland security actions taken by the National Guard Bureau in this state.

(f) Requires the assistant deputy adjutant general for the Army National Guard or the Air National Guard, as determined by the adjutant general, to coordinate activities of the Texas military forces with the National Guard Bureau to ensure funding and coordination with other federal, state, and local jurisdictions and officials in matters relating to the operations of the Texas military forces occurring in the assistant deputy adjutant general's jurisdiction or oversight.

(g) Requires the Texas military forces to have at least one traditional Texas Air National Guard general officer and two traditional Texas Army National Guard general officers to support the operation and command of the Texas National Guard.

Sec. 437.059. ADJUTANT GENERAL APPOINTMENTS. Authorizes the adjutant general, as the adjutant general determines appropriate and with available funds, to appoint full-time employees of TMD, traditional national guard members, state guard volunteers, or federal employees.

Sec. 437.060. CONFLICT OF INTEREST PROVISIONS. (a) Prohibits a person from being appointed adjutant general, a deputy adjutant general, a general officer, judge advocate general, or executive director if the person is required to register as a lobbyist under Chapter 305 (Registration of Lobbyists) because of the person's activities for compensation on behalf of a profession related to the operation of TMD.

(b) Prohibits an officer, employee, or paid consultant of a Texas trade association in the field of defense or veterans affairs from being appointed adjutant general, a deputy adjutant general, a general officer, judge advocate general, or executive director.

(c) Prohibits a person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of defense or veterans affairs from being appointed adjutant general, a deputy adjutant general, a general officer, judge advocate general, or executive director.

(d) Provides that, for the purposes of this section, a Texas trade association is a nonprofit, cooperative, and voluntarily joined association in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

Sec. 437.061. REMOVAL PROVISIONS FOR ADJUTANT GENERAL. (a) Provides that it is a ground for removal that the adjutant general:

(1) does not have at the time of appointment the qualifications for service required by this chapter;

(2) does not maintain the qualifications for service required by this chapter;

(3) does not obtain approval of the General Officer Federal Recognition Board or its successor;

(4) is found to have violated ethical standards of conduct of the federal government, this state, or TMD; or

(5) cannot discharge the duties required by this chapter because of illness or disability.

(b) Provides that the validity of an action of the adjutant general is not affected by the fact that it is taken when a ground for removal exists.

(c) Requires the deputy adjutant general with the longest tenure in that position in TMD, if a potential ground for removal exists, the deputy adjutant general with the longest tenure in that position in TMD to notify the governor that a potential ground for removal exists.

Sec. 437.062. SALARIES. (a) Provides that the adjutant general is entitled to a salary in the amount designated in the General Appropriations Act.

(b) Provides that a deputy adjutant general, general officer, or executive director employed under this chapter is entitled to a salary subject to the classification and salary schedule provisions defined in the General Appropriations Act.

SUBCHAPTER C. TEXAS MILITARY DEPARTMENT OPERATIONS

Sec. 437.101. EXECUTIVE DIRECTOR. (a) Provides that the executive director is an employee of TMD and serves at the pleasure of the adjutant general.

(b) Authorizes the executive director, subject to Sections 437.052 and 437.054, to enter into contracts related to the purposes or duties of TMD and to have and use a corporate seal.

(c) Provides that the executive director is responsible for the daily administration of TMD and the operational compliance with the cooperative agreements between TMD and the National Guard Bureau.

Sec. 437.102. DEPARTMENT PERSONNEL. (a) Authorizes the adjutant general to hire employees as necessary to carry on the operations of TMD.

(b) Requires the executive director or the executive director's designee to provide to the adjutant general and to TMD employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Sec. 437.103. STATE GUARD ADMINISTRATIVE PERSONNEL. (a) Requires an employee, except as provided by Subsection (b), to be eligible to hold a position relating to the daily operations and coordination of the Texas State Guard, to maintain membership in the Texas State Guard.

(b) Authorizes the adjutant general, for good cause, to exempt a position from the requirement under Subsection (a) by placing a letter stating the reason for the exemption in the state human resources files at TMD.

Sec. 437.104. CAREER LADDER PROGRAM; PERFORMANCE EVALUATIONS. (a) Requires the executive director to develop a career ladder program. Requires the program to require intra-agency postings of all non-entry level positions concurrently with any public posting.

(b) Requires the executive director to develop a system of employee performance evaluations. Requires the system to require that evaluations be conducted at least

annually. Requires all merit pay for TMD employees to be based on the system established under this subsection.

Sec. 437.105. **AUTHORITY TO MAKE DIFFERENTIAL PAYMENTS.** Authorizes TMD to pay an employee additional compensation for duty hours other than Monday through Friday normal business hours or for the ability to legally carry weapons. Requires TMD, by rule, to establish the classification, procedures, and amount of the additional compensation. Authorizes TMD to make differential payments only if money is available to pay those amounts.

Sec. 437.106. **HISTORICAL PRESERVATION OF RECORDS AND PROPERTY.** Requires TMD, except as provided by other law and in accordance with all applicable federal and state requirements, to preserve all historically significant military records or property in a military museum in this state.

Sec. 437.107. **REPORTS.** (a) Requires TMD annually to submit to the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by TMD during the preceding fiscal year. Requires the report to be in the form and reported in the time provided by the General Appropriations Act.

(b) Requires TMD to provide to the governor in December of each even-numbered year:

(1) an account of all arms, ammunition, and other military property owned by or in possession of this state and its present condition;

(2) a statement of the number, condition, and organization of the Texas military forces;

(3) suggestions important to the military interests and conditions of this state;

(4) a list and description of all Texas military forces missions that are in progress; and

(5) a statement of TMD plans to obtain and maintain future Texas National Guard missions, including proposed missions that are consistent with the United States Department of Defense's strategies.

(c) Provides that information relating to any current, proposed, or planned mission that the adjutant general considers to be classified or sensitive in nature is exempt from the reporting requirement of Subsection (b).

Sec. 437.108. **TECHNOLOGY POLICY.** Requires TMD to develop and implement a policy requiring the executive director and TMD's employees to research and propose appropriate technological solutions to improve TMD's ability to perform its functions. Requires the technological solutions to:

(1) ensure that the public is able to easily find information about TMD on the Internet;

(2) ensure that persons who want to use TMD's services are able to interact with TMD through the Internet and access any service that can be provided effectively through the Internet; and

(3) be cost-effective and developed through TMD's planning processes.

Sec. 437.109. **EXEMPTION FROM CERTAIN STATE ACTIVITIES.** (a) Provides that TMD is exempt from the provisions of Chapter 2054 (Information Resources) relating to

the oversight of information resources and information resource manager provisions to the extent the National Guard Bureau and the Department of Defense provide information technology and communications support to TMD.

(b) Provides that TMD is exempt from the review and oversight of the State Office of Risk Management as prescribed by Chapter 412 (State Office of Risk Management), Labor Code, to the extent the covered programs are federally managed and the cost is reimbursed to this state by the National Guard Bureau.

(c) Provides that, notwithstanding any other law, a service member considered to be a temporary state employee is not considered to be an employee of TMD for the purpose of counting the number of full-time equivalent positions authorized for the TMD in the General Appropriations Act.

Sec. 437.110. POST EXCHANGES ON STATE MILITARY PROPERTY. (a) Authorizes TMD to establish and contract for the operation of not more than three military-type post exchanges similar to those operated by the armed forces of the United States on any real property under the management and control of TMD. Authorizes a post exchange to sell, lease, or rent goods and services, including firearms, tobacco products, prepared foods, and beer and wine but not distilled spirits. Authorizes TMD to designate facilities located on state property to use for purposes of this section.

(b) Requires the adjutant general to adopt rules to govern post exchanges established under this section that are similar to the procedures, policies, and restrictions governing exchanges of the Army and Air Force Exchange Service, including rules that require an individual to show identification indicating the individual is qualified to buy, lease, or rent goods at the post exchange.

(c) Requires TMD to contract with a person to operate a post exchange created under this section.

(d) Authorizes a post exchange to sell, lease, or rent goods and services only to:

- (1) active, retired, and reserve members of the United States armed services;
- (2) active and retired members of the state military forces;
- (3) full-time employees of the adjutant general's department; and
- (4) dependents of an individual described by this subsection.

(e) Provides that the post exchange services account is a unit fund under Section 437.211. Provides that, for purposes of Section 437.211, the commander is the installation commander. Provides that the post exchange services account is exempt from the application of Sections 403.095 (Use of Dedicated Revenue) and 404.071 (Disposition of Interest on Investments). Provides that the account consists of:

- (1) money received from the operation of post exchanges created under this section; and
- (2) all interest attributable to money held in the account.

(f) Authorizes a post exchange created under this section to sell goods and services, including beer and wine but not distilled spirits, for off-premises consumption if the operator of the exchange holds the appropriate license or permit issued by the Texas Alcoholic Beverage Commission. Requires the licensee or permittee to comply in all respects with the Alcoholic Beverage Code and the rules of the Texas Alcoholic Beverage Commission.

(g) Provides that Chapter 94 (Vending Facilities Operated by Blind Persons), Human Resources Code, does not apply to vending facilities operated at a post exchange.

Sec. 437.111. DONATIONS. (a) Provides that, except as provided by Subsections (d) and (e), all money paid to TMD under this chapter is subject to Subchapter F (State Funds Reform Act), Chapter 404.

(b) Authorizes TMD to accept funds, property, or services donated by any public or private entity, including:

(1) a state agency or department;

(2) a political subdivision, including a county, municipality, or public school district; or

(3) a special purpose district or authority.

(c) Authorizes TMD to solicit and accept gifts, grants, or donations from any private or public entity to support the Texas military forces or the Texas Military Forces Museum and authorizes TMD to spend the proceeds consistent with donor limitations and for the use of the Texas military forces, the museum, or TMD.

(d) Authorizes TMD to accept a donation or transfer of funds from the federal government directly or through another agency or from an agency or political subdivision of this state. Requires the funds to be deposited with the comptroller of public accounts of the State of Texas (comptroller). Authorizes the funds to be used for the legal purposes of TMD as provided in the donation or transfer. Requires the comptroller to make payments from the funds on a properly drawn warrant issued by the comptroller on request of the adjutant general and approval of the governor under rules adopted by the comptroller.

(e) Authorizes a unit to accept funds for the benefit of a particular military unit in a unit fund as prescribed in Section 437.211.

Sec. 437.112. INFORMATION OF INTEREST; COMPLAINTS. (a) Requires TMD to prepare information of public interest describing the functions of TMD and the procedures by which complaints are filed with and resolved by TMD. Requires TMD to make the information available to the public and appropriate state agencies.

(b) Requires the adjutant general by rule to establish methods by which the public and members of the Texas National Guard are notified of the name, mailing address, and telephone number of the department for the purpose of directing complaints to TMD.

(c) Requires TMD to maintain a file on each written complaint filed with TMD. Requires the file to include the name of the person who filed the complaint; the date the complaint is received by TMD; the subject matter of the complaint; the name of each person contacted in connection with the complaint; a summary of the results of the review or investigation of the complaint; and an explanation of the reason the file was closed, if TMD closed the file without taking action other than to investigate the complaint.

(d) Requires TMD to provide to the person filing the complaint and to each person who is the subject of the complaint a copy of TMD's policies and procedures relating to complaint investigation and resolution unless the notice would jeopardize an undercover investigation.

(e) Requires TMD, at least quarterly until final disposition of the complaint, to notify the person filing the complaint and each person who is the subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Sec. 437.113. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) Requires TMD to develop and implement a policy to encourage the use of appropriate alternative dispute resolution procedures under Chapter 2009 (Alternative Dispute Resolution for Use by Governmental Bodies) to assist in the resolution of internal and external disputes within TMD's jurisdiction.

(b) Requires TMD's procedures relating to alternative dispute resolution to conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) Requires TMD to designate a trained person to coordinate the implementation of the policy adopted under Subsection (a); serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and collect data concerning the effectiveness of those procedures, as implemented by TMD.

Sec. 437.114. SUPPLIES. (a) Authorizes TMD to purchase from money appropriated to TMD and keep ready for use, store, or issue a necessary amount of ordnance, subsistence, medical, signal, engineering, and other supplies.

(b) Authorizes TMD to dispose of or exchange supplies owned by this state that are unfit for further use as TMD determines is in the best interest of the Texas military forces.

(c) Requires TMD to provide each state military unit with the arms, equipment, instruction and record books, and other supplies necessary for performance of the duties required of the unit by this chapter. Requires the unit to keep the property in proper repair and good condition. Authorizes TMD to execute bonds in the name of this state as necessary to obtain this property.

Sec. 437.115. BIDS. Requires TMD to adopt rules governing the preparation, submission, and opening of bids for contracts.

Sec. 437.116. PROGRAM ACCESSIBILITY. Requires TMD to comply with federal and state laws related to program accessibility. Requires TMD to also prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to TMD's programs and services.

Sec. 437.117. TEXAS CHALLENGE ACADEMY. (a) Provides that, for each student enrolled in the Texas ChalleNGe Academy, TMD is entitled to allotments from the Foundation School Program under Chapter 42 (Foundation School Program), Education Code, as if the academy were a school district without a tier one local share for purposes of Section 42.253 (Distribution of Foundation School Fund), Education Code.

(b) Requires TMD to contract with an appropriate school district for the provision of educational services for students enrolled in the academy. Requires the school district with which TMD contracts to be responsible for ensuring compliance with any applicable regulatory requirements imposed under the Education Code and enforced by the commissioner of education and the Texas Education Agency.

Sec. 437.118. USE OF FUNDS TO SUPPORT MILITARY HOUSING AND TRAINING. (a) Authorizes TMD to use appropriated money to purchase food and beverages for charged military housing and training functions required of the Texas military forces.

(b) Requires TMD to maintain and operate charged military housing in accordance with policies and rules adopted by the adjutant general and published on TMD's Internet website. Requires TMD to deposit room fees in a billeting account.

SUBCHAPTER D. REAL PROPERTY MANAGEMENT

Sec. 437.151. REAL PROPERTY ADVISORY COUNCIL. (a) Provides that the real property advisory council is composed of the following eight members:

- (1) two deputy adjutants general;
- (2) the executive director; and
- (3) five public members who are not actively serving in the Texas National Guard and who have experience in architecture, construction management, engineering, property management, facilities maintenance management, real estate services, or real property law.

(b) Provides that the public members of the advisory council are appointed to staggered three-year terms by the adjutant general.

(c) Requires the adjutant general by rule to specify the requirements, term limits, and expectations for the advisory council.

(d) Requires the adjutant general to designate one of the public members of the advisory council as the presiding officer of the advisory council to serve in that capacity at the pleasure of the adjutant general.

(e) Provides that the director of TMD's facilities management office is responsible for administration and coordination of council meetings and preparation of materials with input from the council membership.

(f) Requires the council to meet at least two times each fiscal year to advise TMD on the facility master plan; the long-range construction plan; the selection of architecture and engineering firms; requests for bonding authority for state military facilities; the disposal or sale of TMD property; surface leases of TMD property; natural resources management plans; and environmental studies and agreements.

(g) Provides that each public member of the advisory council is entitled to a per diem as provided by the General Appropriations Act for each day that the member engages in the business of the council.

(h) Provides that each member of the advisory council is entitled to reimbursement for meals, lodging, transportation, and incidental expenses under the rules for reimbursement that apply to the member's office or employment, if the member is a state officer or employee or as provided by the General Appropriations Act if the member is not a state officer or employee.

(i) Provides that the advisory council is not subject to Chapter 2110 (State Agency Advisory Committee).

Sec. 437.152. PUBLIC COMMENT. Requires the advisory council to develop and implement policies that provide the public with a reasonable opportunity to at least annually appear before the council and speak on any issue related to the construction, repair, and maintenance of Texas military forces armories, facilities, and improvements under the jurisdiction of TMD.

Sec. 437.153. **BORROWING MONEY; ISSUING AND SELLING BONDS.** (a) Authorizes TMD to borrow money in the amount and under circumstances allowed by the Texas Constitution and to request the Texas Public Finance Authority, on behalf of TMD, to issue and sell fully negotiable bonds to acquire, construct, remodel, repair, or equip one or more facilities.

(b) Authorizes the Texas Public Finance Authority to sell the bonds in any manner it determines to be in the best interest of TMD, except that it is prohibited from selling a bond that has not been approved by the attorney general and registered with the comptroller.

Sec. 437.154. **REPORT OF MILITARY USE OF PROPERTY.** (a) Requires TMD, if TMD receives notice from the General Land Office as provided by Section 31.156 (Real Property Review), Natural Resources Code, to produce a report evaluating the military use of any real property under the management and control of TMD.

(b) Requires TMD, not later than August 1 of the year in which the commissioner of the General Land Office submits a report as provided by Section 31.157 (Evaluation Report), Natural Resources Code, to submit a preliminary report of the report required under Subsection (a) to the commissioner of the General Land Office identifying the real property used for military purposes. Requires TMD, not later than September 1 of the year in which the commissioner of the General Land Office submits a report as provided by Section 31.157, Natural Resources Code, to submit the final report as required by Subsection (a) to the governor; the presiding officer of each house of the legislature; the Legislative Budget Board; and the governor's budget office.

Sec. 437.155. **ACQUISITION; MANAGEMENT; PLEDGE OF RENTS, ISSUES, AND PROFITS.** (a) Authorizes TMD by gift, lease, or purchase to acquire real property, including leasehold estates in real property, for any purpose TMD considers necessary for the use of the Texas military forces.

(b) Authorizes TMD to acquire furniture and equipment suitable for facility purposes by gift, purchase, or construction.

(c) Authorizes TMD to:

(1) hold, manage, or maintain the property;

(2) after the analysis required under Section 437.163(b), if applicable, lease or sell the property; and

(3) pledge all or part of the rents, issues, and profits of the property.

(d) Authorizes TMD to own and operate or contract with a vendor to provide temporary lodging facilities for use of military and retired military personnel. Requires TMD to publish information on TMD's Internet website outlining the operation, use, and fee structure for temporary lodging facilities. Authorizes TMD, out of the money received for operating the temporary lodging facilities, to procure the necessary furnishings, goods, and services to manage and operate the temporary lodging facilities.

(e) Authorizes the adjutant general, assistant deputy adjutant general for the air, and assistant deputy adjutant general for the army to reside in state-owned housing and are exempt from paying housing costs. Authorizes TMD to allocate existing TMD housing to other TMD employees who demonstrate a need based on location and job description at a rate in accordance with the General Appropriations Act.

(f) Requires TMD to deposit proceeds from any land lease or other revenue under this section, other than daily fee deposits that qualify as unit funds, into the state treasury to the credit of TMD for the use and benefit of the facilities of the Texas military forces. Provides that if any part of these funds remains unexpended and unobligated at the end of the state fiscal year, that amount is dedicated for the same purposes in the subsequent year. Prohibits money in the fund from being diverted for any other purpose.

Sec. 437.156. CONSTRUCTION; FURNISHING AND EQUIPMENT. (a) Authorizes TMD to construct buildings on real property held by TMD in fee simple or otherwise. Authorizes TMD to furnish and equip the buildings.

(b) Authorizes TMD to construct a building on land comprising a site licensed or otherwise provided to this state by the federal government. Provides that, if TMD constructs a building on that site, the site becomes the property of TMD for all purposes of this chapter as if the site had been acquired by gift to or purchase by TMD.

(c) Requires TMD buildings that are constructed or undergoing major renovations to include information distribution system provisions in the contract.

Sec. 437.157. LEASE OF PROPERTY. (a) Provides that, in this section, "lease" includes a sublease.

(b) Authorizes TMD, after the analysis required under Section 437.163(b), if applicable, to lease property to any person.

(c) Provides that the law requiring notice and competitive bids does not apply to a lease under this section.

Sec. 437.158. TRANSFER TO STATE. Requires the Texas Public Finance Authority, when property that the Texas Public Finance Authority owns in accordance with Section 437.159 is fully paid for and free of liens and all obligations incurred in connection with the acquisition and construction of the property have been fully paid, to donate and transfer the property to TMD by appropriate instruments of transfer. Requires the instruments of transfer to be kept in the custody of TMD.

Sec. 437.159. PROPERTY FINANCED BY BONDS. Provides that, notwithstanding any other provision of this chapter, property used by this state for military purposes that was acquired, constructed, remodeled, or repaired using money from bonds and that has not yet been transferred under Section 437.158 is owned by the Texas Public Finance Authority and a reference to TMD in this chapter in relation to that ownership means the Texas Public Finance Authority until the property is transferred.

Sec. 437.160. DONATION OF PROPERTY. Authorizes the governing body of a county or municipality, on behalf of the county or municipality, to donate real property to TMD for use as a Texas military forces facility. Authorizes the donation to be in fee simple or otherwise.

Sec. 437.161. TAX STATUS OF PROPERTY. Provides that property held by TMD and rents, issues, and profits from the property are exempt from taxation by the state, a municipality, a county or other political subdivision, or a taxing district of this state.

Sec. 437.162. FACILITY ACCESSIBILITY. Requires TMD for new facility construction to comply with federal and state laws related to facility accessibility.

Sec. 437.163. DISPOSAL OF CERTAIN SURPLUS REAL PROPERTY. (a) Authorizes TMD, when TMD property that is owned or transferred to this state is fully paid for and free of liens incurred in connection with the acquisition and construction of

the property, to, after conducting the analysis required under this section, if applicable, properly dispose of the property that is designated by the adjutant general as surplus.

(b) Requires TMD, before granting or conveying an interest in real property under this subchapter, to conduct an analysis to determine whether the disposal of property is in the best interests of the Texas military forces and evaluate whether each unit of the Texas military forces has adequate facility space to ensure that ongoing operations are maintained.

(c) Authorizes TMD, to accomplish the purposes of Subsection (a), to remove, dismantle, or sever any of the property or authorize its removal, dismantling, or severance.

(d) Authorizes TMD, if property under this section is designated as surplus, to sell the property to the highest and best bidder for cash using either sealed bid or public auction. Authorizes TMD to reject any or all bids. Authorizes TMD, if the site is considered historical, to evaluate other factors relating to ensuring the long-term care of the site when selecting the winning bidder.

(e) Authorizes TMD, if property under this section is designated for exchange, to exchange the property for one or more parcels of land equal to or exceeding the value of the property to be exchanged.

(f) Requires a sale, deed, or exchange made under this section to reserve to this state a one-sixteenth mineral interest free of cost of production.

(g) Authorizes TMD to:

(1) reconvey to the original grantor or donor all rights, title, and interests, including mineral interests, to all or part of the land conveyed by that person; and

(2) convey to the original grantor or donor, on a negotiated basis at fair market value, improvements constructed on the land reconveyed.

(h) Requires TMD to deposit proceeds of sales under this section in the state treasury to the credit of TMD for the use and benefit of the Texas military forces.

SUBCHAPTER E. TEXAS MILITARY FORCES

Sec. 437.201. CERTIFICATION OF MILITARY UNITS. Requires the adjutant general to issue each unit a certificate stating that the unit has been duly organized according to the laws and rules of the Texas military forces and is entitled to the rights, powers, privileges, amenities, and immunities conferred by law and military regulation. Provides that the certificate is evidence in a state court that the unit is duly incorporated.

Sec. 437.202. LEAVE OF ABSENCE FOR PUBLIC OFFICERS AND EMPLOYEES.

(a) Provides that, except as provided by Subsections (b) and (c), a person who is an officer or employee of this state, a municipality, a county, or another political subdivision of this state and who is a member of the Texas military forces, a reserve component of the armed forces, or a member of a state or federally authorized urban search and rescue team is entitled to a paid leave of absence from the person's duties on a day on which the person is engaged in authorized training or duty ordered or authorized by proper authority for not more than 15 workdays in a federal fiscal year. Prohibits the person, during a leave of absence, from being subjected to loss of time, efficiency rating, personal time, sick leave, or vacation time.

(b) Provides that an officer or employee of this state is entitled to carry forward from one federal fiscal year to the next the net balance of unused accumulated leave under Subsection (a) that does not exceed 45 workdays.

(c) Provides that a member of the legislature is entitled to pay for all days that the member is absent from a session of the legislature and engaged in training or duty as provided by Subsection (a).

(d) Provides that a state employee who is a member of the Texas military forces, a reserve component of the armed forces, or a member of a state or federally authorized urban search and rescue team and who is ordered to duty by proper authority is entitled, when relieved from duty, to be restored to the position that the employee held when ordered to duty.

Sec. 437.203. DUAL OFFICE HOLDING. Provides that a position in or membership in the Texas military forces is not considered to be a civil office of emolument.

Sec. 437.204. REEMPLOYMENT OF SERVICE MEMBER CALLED TO TRAINING OR DUTY. (a) Prohibits an employer from terminating the employment of an employee who is a member of the state military forces of this state or any other state because the employee is ordered to authorized training or duty by a proper authority. Provides that the employee is entitled to return to the same employment held when ordered to training or duty and is prohibited from being subjected to loss of time, efficiency rating, vacation time, or any benefit of employment during or because of the absence. Requires the employee, as soon as practicable after release from duty, to give written or actual notice of intent to return to employment.

(b) Provides that a violation of this section is an unlawful employment practice. Authorizes a person injured by a violation of this section to file a complaint with the Texas Workforce Commission civil rights division under Subchapter J.

Sec. 437.205. OATH. (a) Authorizes a commissioned officer of the Texas military forces to administer oaths for purposes of military administration. Provides that the officer's signature, without seal, and the title of the officer's assignment is prima facie evidence of the officer's authority.

(b) Requires a person appointed, enlisted, or drafted in the Texas military forces to take and subscribe an oath prescribed by the adjutant general.

Sec. 437.206. COMMISSIONS. (a) Requires an initial state commission in the Texas military forces to be:

- (1) in the name and by authority of this state;
- (2) sealed with the state seal;
- (3) signed by the governor and attested by the secretary of state;
- (4) recorded by the Texas military forces; and
- (5) conferred without fee.

(b) Authorizes the governor, on the recommendation of the commanding officer or noncommissioned officer of the Texas military forces, to confer on the officer or noncommissioned officer a brevet of a grade higher than the ordinary commission or brevet held by the officer or noncommissioned officer for gallant conduct or meritorious military service. Requires the adjutant general to specify the criteria for gallant conduct or meritorious military service.

(c) Authorizes the governor to confer on an officer in active service in the Texas military forces who has previously served in the forces of the United States during a war a brevet of a grade equal to the highest grade in which the officer previously served.

(d) Provides that a commission under Subsection (b) or (c) carries only the privileges or rights allowed for similar commissions in the military service of the United States.

(e) Authorizes the governor, without examination, to appoint and confer a brevet of second lieutenant on an enlisted service member who has served well and faithfully in the Texas military forces for 25 years or more. Requires the service member to immediately be placed on the retired list.

(f) Authorizes the governor to delegate the powers granted by this section to the adjutant general.

Sec. 437.207. MILITARY UNIT AS CORPORATE BODY. (a) Provides that a military unit in the Texas military forces is, from the time of its creation, a body politic and corporate and is authorized to:

(1) take, purchase, own, hold, transfer, pledge, and convey under its corporate name property of a total value, when acquired, of not more than \$200,000;

(2) sue and be sued, plead and be impleaded, and prosecute and defend in court under its corporate name;

(3) have and use a common seal in a form it adopts;

(4) adopt bylaws to govern and regulate its affairs, consistent with state law and United States law and the orders and rules of the governor; and

(5) otherwise act as necessary and proper to carry out its purpose.

(b) Provides that the officers of the unit or, if there are no officers in the unit, the noncommissioned officers are its directors. Provides that the senior officer is its president.

(c) Provides that the power of a unit to hold or handle property is not affected by a natural increase in the property's value after it is acquired.

Sec. 437.208. ORGANIZATION PROHIBITED. (a) Prohibits a body of persons other than the regularly organized Texas military forces, the armed forces of the United States, or the active militia of another state, except as provided by Subsection (b), from associating as a military company or organization or parade in public with firearms in a municipality of the state.

(b) Authorizes students in an educational institution at which military science is a prescribed part of the course of instruction, with the consent of the governor, to drill and perform ceremonies with firearms in public. Authorizes the governor to delegate the powers granted by this subsection to the adjutant general.

Sec. 437.209. FOREIGN TROOPS. Prohibits a military force from another state, territory, or district, except a force that is on federal orders and acting as a part of the United States armed forces, from entering this state without the permission of the governor. Authorizes the governor to delegate the powers granted by this section to the adjutant general.

Sec. 437.210. INTERFERENCE WITH TEXAS MILITARY FORCES. (a) Provides that a person commits an offense if the person physically and intentionally hinders, delays, or obstructs or intentionally attempts to hinder, delay, or obstruct a portion of the Texas military forces on active duty in performance of a military duty.

(b) Provides that an offense under Subsection (a) is a Class B misdemeanor.

(c) Authorizes the commanding officer of a portion of the Texas military forces parading or performing a military duty in a street or highway to require a person in the street or highway to yield the right-of-way to the forces, except that the commanding officer is prohibited from interfering with the carrying of the United States mail, a legitimate function of the police, or the progress or operation of an emergency medical services provider or fire department.

(d) Authorizes a commanding officer, during an occasion of duty, to detain a person who trespasses on a place of duty; interrupts or molests the orderly discharge of duty by those under orders; or disturbs or prevents the passage of troops going to or coming from duty.

(e) Requires the commanding officer to make a reasonable effort to forward detained individuals to civil authorities as soon as practicable.

Sec. 437.211. **MANAGEMENT OF UNIT FUNDS.** (a) Provides that the commanding officer of each unit is the custodian of the unit fund. Requires the commanding officer to:

(1) receive, keep, properly disburse, and document the use of the money in the fund; and

(2) submit to TMD an itemized statement of money received and disbursed during the preceding reporting period on September 1 of each year and when there is a change of the commanding officer of the unit.

(b) Provides that the unit fund consists of donations made to the fund; rental income from state facilities under the management of the unit that are leased for less than three days; revenue received from the sale of goods or services to members of the unit and visitors; and depository interest and investment income earned on amounts in the fund.

(c) Provides that a unit fund is a special fund held outside the state treasury to be administered by the commanding officer of the unit without further appropriation. Provides that a unit fund is not subject to Chapter 2256 (Public Funds Investment). Requires TMD to develop policies and procedures concerning the administration of the funds. Provides that, if any part of the fund remains unexpended and unobligated at the end of the state fiscal year, that amount is dedicated for the same purposes in the subsequent year. Prohibits money in the fund from being diverted for any other purpose.

(d) Provides that Chapter 94, Human Resources Code, does not apply to vending facilities operated for the benefit of a unit fund.

Sec. 437.212. **PAY AND BENEFITS FOR STATE ACTIVE DUTY, STATE TRAINING, AND OTHER DUTY.** (a) Authorizes this state to make suitable provision for the pay, transportation, subsistence, and housing of service members on state active duty or state training and other duty as necessary to accomplish the mission.

(b) Provides that pay and benefits received by service members of the Texas military forces under this chapter are not a gratuity, but are compensation for services provided as a condition of membership in the Texas military forces.

(c) Provides that service members who are state employees when called by proper authority into a state active duty status or for state training and other duty status are entitled to the regular benefits provided by the employing agency and a paid leave of absence as provided by Section 437.202.

(d) Provides that a service member who is not a state employee when called by proper authority into a state active duty status or state training and other duty status becomes a temporary state employee when in this status and is limited to the benefits specified in this chapter. Provides that a temporary state employee status does not apply to a service member who is a federal civil servant or on active guard reserve status, including a member serving on orders issued under Title 10 or 32, United States Code.

(e) Provides that a service member compensated under this section is eligible for state workers' compensation coverage under Chapter 501 (Workers' Compensation Insurance Coverage for State Employees, Including Employees Under the Direction or Control of the Board of Regents of Texas Tech University), Labor Code.

(f) Provides that a volunteer in the Texas State Guard who is not a full-time or part-time state employee and who has been on state active duty or on state training or other duty for more than 90 days is eligible to participate in the state group benefits program under Chapter 1551 (Texas Employees Group Benefits Act), Insurance Code, to purchase health or dental insurance coverage, subject to the following requirements:

(1) the participant must be a member of the Texas State Guard at the time of enrollment in the group benefits program;

(2) the participant is required to pay the full cost of health or dental insurance coverage under the group benefits program and is prohibited from receiving a state contribution for premiums; and

(3) an application under this subsection for group benefit health or dental insurance coverage is required to be submitted in accordance with procedures established by the Employees Retirement System of Texas.

(g) Requires the adjutant general and the Employees Retirement System of Texas to coordinate and consult to implement the benefits program provided by Subsection (f) and to adopt a memorandum of understanding to establish the procedures that a member of the Texas State Guard is authorized to use to elect to participate in the state group benefits program and an appropriate method to annually confirm continuing eligibility to participate in the group benefits program.

(h) Prohibits a service member who is on active guard reserve status, including a member serving on orders issued under Title 10 or 32, United States Code, from receiving state active duty pay or state training and other duty pay.

(i) Prohibits a service member who is a federal technician in a paid status from receiving state active duty pay or pay for state training and other duty unless the member is on a military leave or leave without pay status from the federal employment.

Sec. 437.213. CERTAIN BENEFITS AND PROTECTIONS FOR STATE SERVICE. Provides that a service member of the Texas military forces who is ordered to state active duty or to state training and other duty by the governor, the adjutant general, or another proper authority under the law of this state is entitled to the same benefits and protections provided to persons:

(1) performing service in the uniformed services as provided by 38 U.S.C. Sections 4301-4373 and 4376-4379, as that law existed on April 1, 2003; and

(2) in the military service of the United States as provided by 50 App. U.S.C. Sections 501-536, 560, and 580-594, as that law existed on April 1, 2003.

Sec. 437.214. **MILITARY FUNERALS AND HONORS.** (a) Authorizes the Texas military forces, on the request of a person listed in Subsection (b), to provide a military funeral and honor service for a decedent who served in the Texas military forces.

(b) Authorizes the following persons to request a military funeral and honor service from the Texas military forces: the decedent's spouse; the decedent's adult children, if there is no spouse; the decedent's parents, if there is no spouse or adult child; the decedent's brothers or sisters, if there is no spouse, adult child, or parent; or the executor or administrator of the decedent's estate, if there is no spouse, adult child, parent, or brother or sister.

(c) Provides that a service member is not eligible for a military funeral and honor service under this section if the service member is eligible for a military funeral and honor service under federal law.

(d) Requires the Texas military forces to model the military funeral and honor service after the service provided by the federal government.

Sec. 437.215. **GRAVE MARKERS FOR STATE MILITARY PERSONNEL.** (a) Requires TMD, on the request of a person listed in Subsection (b), to provide a grave marker for a decedent who served in the Texas military forces.

(b) Authorizes the grave marker to be requested from TMD by a person described by Section 437.214(b).

(c) Provides that a service member is not eligible for a grave marker under this section if the service member is eligible for a grave marker under federal law.

(d) Requires TMD to model the grave markers after the grave markers provided by the federal government.

(e) Requires TMD to publish information about its grave marker program on TMD's Internet website.

Sec. 437.216. **SERVICE REFERRAL PROGRAM.** (a) Requires TMD to develop a program to provide referrals to service members for reintegration services.

(b) Requires the program to:

(1) identify and make referrals to community-based organizations that have existing programs that provide reintegration services to service members and their families;

(2) focus on early intervention and appropriate referral to promote the health of service members and the children and other family members of the service members;

(3) promote family cohesion and sustainability;

(4) be based on evidence-based best practices related to meeting the needs of service members and the children and other family members of the service members;

(5) be provided, when appropriate, in a community setting through peer counseling and other means effective for community outreach;

(6) use existing service delivery facilities, including churches, National Guard Bureau family education facilities, and veterans centers and support facilities;

(7) use community-based and faith-based organizations;

(8) be developed and administered in a manner that promotes collaboration of service providers and results in the referral of service members, their children, and other family members to the appropriate federal, state, and community services for which they are eligible; and

(9) provide information and referral services regarding the risks and consequences of trauma, including post-traumatic stress disorder, traumatic brain injury, and other conditions for which service members are at risk.

(c) Require TMD to ensure that each person who provides referrals to service members under the referral program has received sufficient training to ensure that service members receive accurate information and service members are notified in a timely manner about the service referral program.

(d) Requires TMD, in developing the referral program, to consult with the National Guard Bureau, the United States Veterans Health Administration, the Texas A&M Health Science Center College of Medicine, and The University of Texas Health Science Center at San Antonio.

Sec. 437.217. EXEMPTION FROM FEES FOR DEPLOYED MILITARY PERSONNEL. (a) Provides that a member of the National Guard on federal active duty, or a member of the armed forces of the United States on active duty, who is preparing to be deployed to serve in a hostile fire zone as designated by the United States secretary of defense is exempt from paying the following state or local governmental fees the member incurs because of the deployment to arrange the member's personal affairs:

(1) fees for obtaining copies of a birth certificate; a recorded marriage license; a divorce decree; a child support order; guardianship documents; and property tax records;

(2) fees for issuing a marriage license or duplicate marriage license; and

(3) fees for transferring title to real or personal property.

(b) Authorizes the governmental entity responsible for collecting a fee described by Subsection (a) to rely on a letter issued by the commander of the service member's unit for purposes of providing an exemption under Subsection (a).

Sec. 437.218. TAX EXEMPTION. (a) Provides that an officer or enlisted service member in the Texas military forces who complies with the service member's military duties as prescribed by this chapter is exempt from payment of a road or street tax.

(b) Requires a service member, to obtain the exemption, to file in the county tax assessor-collector's office an affidavit, sworn to before a notary public or other person authorized to administer oaths in this state, in certain language.

(c) Authorizes the county tax assessor-collector to rely on a letter issued by the commander of the service member's unit for purposes of providing the exemption under this section.

Sec. 437.219. COMPENSATION. (a) Prohibits a member of the Texas military forces who performs training or other military duty under authority of the United States Code,

except as provided by Section 437.220, from receiving pay or allowances from this state for that duty.

(b) Provides that, when orders are issued for state active duty or state training or other duty, a National Guard service member of the Texas military forces performing the duty or training is entitled, during the period of the duty or training, to receive pay and allowances as provided by law for the United States armed forces. Provides that pay is a stipend for duty or training and is salary or base pay. Prohibits the pay from being reduced because of food, shelter, or transportation that this state pays or furnishes in connection with the duty or training.

(c) Requires the adjutant general to set the daily pay rate and allowance rate for state active duty and for state training and other duty for Texas State Guard service members called to duty or training under this chapter. Prohibits the rate established by the adjutant general from exceeding the meal and lodging rate set by the comptroller by more than \$25 per day. Requires TMD to publish information about the established pay rates on the department's Internet website.

(d) Provides that duty or training by volunteers in the Texas State Guard without pay is considered for insurance and state coverage purposes as if it were duty or training for pay.

Sec. 437.220. SUPPLEMENTAL DUTY PAY FOR ECONOMIC HARDSHIP. (a) Provides that a person who is called to military duty as a member of the Texas National Guard in the service of this state or the United States by proper federal or state authority and who suffers an economic hardship as a result of serving on military duty is eligible to receive supplemental pay for serving in accordance with this section. Provides that payment under this subsection is subject to the availability of funds.

(b) Requires the comptroller to establish the Texas National Guard members' supplemental military duty pay account in the general revenue fund. Authorizes money in the account to be appropriated only for purposes of implementing this section. Authorizes the comptroller, governor, or adjutant general to accept gifts and grants for deposit to the credit of the account. Authorizes the legislature to transfer money into the account or to appropriate money to implement this section and requires the comptroller to credit that money to the account.

(c) Provides that a member of the Texas National Guard described by Subsection (a) is eligible to receive supplemental pay under this section in an amount not to exceed the lesser of:

(1) the amount required to alleviate the economic hardship the member suffers as a result of serving on active duty; and

(2) the difference between the amount of income that the member has lost from civilian employment as a result of being called to military duty and the amount of military pay and allowances the member receives from state or federal sources while on military duty.

(d) Requires the adjutant general to determine whether a member is eligible to receive supplemental pay under this section and the amount of supplemental pay a member is authorized to receive. Requires the adjutant general, in determining the amount, to consider the total amount that is available for supplemental pay during a period and the probable total need for supplemental pay during that period.

(e) Authorizes the adjutant general to adopt rules to implement this section, including rules that prescribe the procedure for requesting supplemental pay and that prescribe evidence a member may or must present to demonstrate hardship. Authorizes the comptroller, in consultation with the adjutant general, to adopt

rules to govern the manner and method of paying supplemental pay under this section.

Sec. 437.221. **OTHER DUTY AND COMMUNITY SERVICE MISSIONS.** Authorizes the governor or the adjutant general, if designated by the governor, to require other duty for officers and enlisted persons in the Texas military forces. Authorizes the other duty to include community service missions.

Sec. 437.222. **LIABILITY OF SERVICE MEMBER.** (a) Provides that a service member of the Texas military forces ordered into service of this state by proper authority is not personally liable in the person's private capacity for any act performed or for any contract or other obligation entered into or undertaken in an official capacity in good faith and without intent to defraud in connection with the administration, management, or conduct of the department in business, programs, or other related affairs, under the limited waiver of governmental immunity provided by the Texas Tort Claims Act (Chapter 101 (Tort Claims), Civil Practice and Remedies Code).

(b) Requires the court, if a suit is instituted against a service member of the Texas military forces for an act of the service member in the service member's official capacity in the discharge of duty or against a person acting under the authority, order, or lawfully issued warrant of the service member, to require the plaintiff to file security for the payment of court costs that are authorized to be awarded to the defendant. Authorizes the defendant in the case to make a general denial and give the special matter in evidence. Provides that if the plaintiff is nonsuited or the verdict or judgment is against the plaintiff, the defendant is entitled to recover three times the court costs.

(c) Requires the court, if a service member of the Texas military forces is sued for injury to a person or property occurring in the performance of or an attempt to perform a duty required by law, to remove venue of the case to a court in another county not subject to disqualification if the defendant applies for the removal and the application is supported by affidavit of two credible persons stating that they have good reason to believe the defendant cannot have a fair and impartial trial before the court.

Sec. 437.223. **EXEMPTION FROM ARREST.** (a) Prohibits a member of the Texas military forces from being arrested, except for treason, felony, or breach of the peace, while the person is going to or coming from a place that the person was required to be for military duty.

(b) Provides that this section does not prevent a peace officer from issuing a traffic summons or citation to appear in court at a later date that does not conflict with the member's duty hours.

Sec. 437.224. **VOTING.** (a) Requires a unit, force, division, or command of the Texas military forces that is engaged in regular training on a day on which a primary, general, or special election for a state or federal office is held to provide time off or arrange duty hours to permit all personnel to vote in the election.

(b) Provides that this section does not apply during war, invasion, insurrection, riot, or tumult, during imminent danger of one of those situations, or during annual active duty for training not exceeding 15 days.

Sec. 437.225. **DISCHARGE.** (a) Authorizes a service member to be discharged from the Texas military forces according to rules adopted by the adjutant general or by federal law or regulations.

(b) Requires the officer or enlisted service member, on termination of the appointment of an officer or enlistment of an enlisted service member in the

Texas military forces, to be given a certificate of discharge stating the character of the person's service.

Sec. 437.226. ASSISTANCE FOR TUITION AND FEES. (a) Provides that, in this section, "institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003 (Definitions), Education Code.

(b) Requires a person, to be eligible for assistance for tuition and mandatory fees under this section, to:

(1) be a service member in good standing, as certified by the adjutant general, of the Texas military forces who is an enlisted member; a warrant officer of a grade from Warrant Officer One through Chief Warrant Officer Three; or a commissioned officer of a grade from Second Lieutenant through Lieutenant Colonel; and

(2) meet any additional qualification established by the adjutant general to carry out the purposes of this section or to further the institutional needs of the Texas military forces.

(c) Requires the adjutant general to grant assistance for tuition and mandatory fees under this section to eligible service members, in an amount not to exceed the amount provided in the General Appropriations Act. Authorizes the adjutant general to apportion the number of assistance awards among the components of the Texas military forces necessary to meet the recruitment and retention needs of those components. Prohibits the number of assistance awards made to members of the Texas State Guard from exceeding 30 for any semester unless the adjutant general finds a compelling need for additional awards to members of the Texas State Guard.

(d) Authorizes assistance for tuition and mandatory fees to be awarded under this section for tuition and mandatory fees charged for any undergraduate or graduate course at an institution of higher education or private or independent institution of higher education, including a vocational or technical course.

(e) Prohibits a service member from receiving assistance for tuition under this section for more than 12 semester credit hours in any semester.

(f) Prohibits a service member from receiving assistance for tuition and mandatory fees under this section for more than 5 academic years or 10 semesters, whichever occurs first for the service member.

(g) Requires TMD, before each semester, to certify to the appropriate public and private institutions of higher education a list of the service members to whom the adjutant general has awarded assistance for tuition and mandatory fees under this section for that semester. Prohibits the amount of assistance awarded by the adjutant general under this section from exceeding the amount of money available to fund the assistance awards.

(h) Requires TMD, from money appropriated for purposes of this section, to authorize the comptroller to reimburse an institution of higher education in an amount equal to the amount of the exemption from tuition and mandatory fees the institution grants to a person under Section 54.345 (Assistance for Tuition and Fees for Members of State Military Forces), Education Code.

(i) Requires TMD, from money appropriated for purposes of this section, to authorize the comptroller to make a grant to a service member attending a private or independent institution of higher education to whom the adjutant general has awarded assistance for tuition and mandatory fees for the semester under this section. Provides that the amount of a grant under this subsection is an amount

equal to the average amount of reimbursement the department estimates will be paid per student for the same semester under Subsection (h).

Sec. 437.227. COMPENSATION FOR DEATH OR INJURY. Provides that a member of the Texas military forces on state active duty or on state training or other duty who is killed or injured while engaged in authorized duty or training is entitled to receive compensation and protections under Title 5 (Workers' Compensation), Labor Code.

Sec. 437.228. SALE OF ARMS. Authorizes the commanding officer of a unit called to enforce law to order the closing of any place where arms, ammunition, or explosives are sold and forbid the sale, barter, loan, or gift of arms, ammunition, or explosives while service members are on duty in or near that place.

Sec. 437.229. ISSUANCE AND USE OF UNIFORM AND OTHER MILITARY PROPERTY. (a) Requires a service member to whom TMD issues a uniform or other military property to give a receipt for the uniform or property. Requires the adjutant general to prescribe the manner in which the uniform and property is required to be accounted for and kept.

(b) Authorizes the uniform or other property to be used only for military purposes. Prohibits an officer or enlisted service member of the Texas military forces who is responsible for public property from lending the property for private use or permit it to be used for a purpose for which it was not intended.

Sec. 437.230. UNIFORM. (a) Provides that, except as provided by Subsection (b), the uniform of the officers and enlisted service members of the Texas military forces is the uniform prescribed for the United States armed forces with modifications that the governor, or adjutant general if delegated the authority, considers necessary.

(b) Requires the Texas State Guard to wear uniforms that differ significantly from the uniform of the National Guard, as required by National Guard regulations.

Sec. 437.231. EXEMPTION FROM LEVY AND SALE. Provides that arms, equipment, clothing, and other military supplies issued by TMD to units or service members of the Texas military forces for military purposes are exempt from levy and sale because of execution for debt or other legal proceedings.

Sec. 437.232. SEIZURE. (a) Authorizes the governor, on a finding by the adjutant general that a person unlawfully possesses, and refuses or fails to deliver up, arms, equipment, or other military property issued by TMD for use of the Texas military forces, to by warrant command the sheriff of the county in which the person resides or is located to seize the arms, equipment, or other military property and keep the property subject to the governor's further order. Authorizes the sheriff in executing the warrant to invoke the power of the county.

(b) Authorizes each sheriff to collect military arms or property issued by the department that is liable to loss or in the hands of unauthorized persons and safely keep the arms and property subject to order of the governor. Requires the sheriff to make a report of the collection to the governor. Provides that the sheriff's official bond covers faithful performance of duties under this subchapter.

SUBCHAPTER F. TEXAS NATIONAL GUARD

Sec. 437.251. COMPOSITION. Prohibits the Texas National Guard from exceeding half of one percent of the population of the state except in case of war, insurrection, or invasion, the prevention of invasion, the suppression of riot, or the aiding of civil authorities to execute state law.

Sec. 437.252. LOCAL GOVERNMENTAL ASSISTANCE. Authorizes funds, other property, or services to be donated to a unit of the Texas National Guard by any public or private entity, including:

- (1) a state agency or department;
- (2) a political subdivision, including a county, municipality, or public school district; or
- (3) a special purpose district or authority.

Sec. 437.253. PROPERTY FORFEITURE. Provides that, when the National Guard Counterdrug Program assists a federal law enforcement agency in enforcing drug laws, the National Guard Counterdrug Program is considered to be a law enforcement agency of this state for the purpose of participating in the sharing of property seized or forfeited to the United States under federal law.

Sec. 437.254. EMPLOYEES IN NATIONAL GUARD; EMERGENCY LEAVE. (a) Provides that a state employee called to state active duty as a member of the Texas National Guard by the governor or other appropriate authority in response to a natural or man-made disaster is entitled to receive paid emergency leave without loss of military leave under Section 437.202 or annual leave.

(b) Provides that a state employee called to federal active duty for the purpose of providing assistance to civil authorities in a declared emergency or for training for that purpose is entitled to receive paid emergency leave for not more than 22 workdays without loss of military leave under Section 437.202 or annual leave.

(c) Provides that the duty or training under Subsection (b) does not include duty or training carried out under Section 437.202.

SUBCHAPTER G. TEXAS STATE GUARD

Sec. 437.301. COMMANDER. Provides that the commander of the Texas State Guard is responsible:

- (1) for the welfare, strength, and management of the Texas State Guard;
- (2) for the organization, training, and administration of all Texas State Guard components;
- (3) to the adjutant general to ensure the Texas State Guard missions remain relevant and responsive as a force provider to this state; and
- (4) to field and staff the volunteer components of the Texas State Guard.

Sec. 437.302. COMPOSITION. (a) Provides that the Texas State Guard is composed of units the governor, or adjutant general if delegated the authority, considers advisable.

(b) Provides that, to serve in the Texas State Guard, a person is required to be a resident of this state for at least 180 days; is required to be a citizen of the United States or a person who has been lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.); is required to be at least 18 years of age and not older than 70 years of age; is required to undergo a background and criminal history check; is prohibited from being a registered sex offender; and is required to be acceptable to and approved by the governor or adjutant general under the governor's direction.

Sec. 437.303. GOVERNOR'S AUTHORITY. (a) Provides that the governor has full control and authority over the Texas State Guard.

(b) Authorizes the governor to adopt rules governing enlistment, organization, administration, uniforms, equipment, maintenance, command, training, and discipline of the Texas State Guard. Requires the rules to the extent practicable and desirable to conform to law, rules, and regulations governing the Texas National Guard.

(c) Authorizes the governor to delegate the powers granted by this section to the adjutant general.

Sec. 437.304. ASSISTANCE. (a) Authorizes funds or other property or services to be solicited by or donated to a unit in the Texas State Guard by any public or private entity, including:

(1) a state agency or department;

(2) a political subdivision, including a county, municipality, or public school district; or

(3) a special purpose district or authority.

(b) Authorizes a public school district to permit the Texas State Guard to use a school building.

(c) Provides that the assistance solicited or received under this section is governed by the policies and rules adopted by the adjutant general.

Sec. 437.305. EMPLOYEES IN STATE GUARD; EMERGENCY LEAVE. Provides that a state employee called to state active duty as a member of the Texas State Guard by the governor or other appropriate authority in response to a natural or man-made disaster is entitled to receive paid emergency leave without loss of military leave under Section 437.202 or annual leave.

Sec. 437.306. USE OUTSIDE STATE; FRESH PURSUIT FROM OR INTO STATE.

(a) Prohibits the Texas State Guard, except as provided by Subsections (b) and (c), from being required to serve outside the state.

(b) Requires the governor, on request of the governor of another state, to order all or part of the Texas State Guard to assist a military or civil authority of that state in defending that state. Authorizes the governor to recall these forces.

(c) Authorizes an organization, unit, or detachment of the Texas State Guard, on order of the officer in immediate command, if authorized by the law of another state, to continue in fresh pursuit of an insurrectionist, a saboteur, an enemy, or enemy forces into that state until the apprehension or capture of the person or forces pursued or until military or police forces of that state or the United States have had a reasonable opportunity to apprehend, capture, or take up the pursuit of the person or forces. Requires the Texas State Guard without unnecessary delay to surrender a person apprehended or captured in another state to the military or police forces of that state or the United States. Provides that this surrender is not a waiver by this state of a right to extradite or prosecute the person for a crime committed in this state.

(d) Authorizes military forces of another state to continue a fresh pursuit into this state in the same manner permitted the Texas State Guard under Subsection (c). Requires the military forces of the other state to without unnecessary delay surrender a person captured or arrested in this state to the military or police forces

of this state to be dealt with according to law. Provides that this subsection does not prohibit an arrest in this state permitted by other law.

Sec. 437.307. FEDERAL SERVICE. Provides that this chapter does not authorize the calling, ordering, or drafting of all or part of the Texas State Guard into military service of the United States. Provides that a person is not exempted by enlistment or commission in the Texas State Guard from military service under federal law.

Sec. 437.308. RECORDS; ARMS; EQUIPMENT. (a) Requires the commander of the Texas State Guard to maintain and preserve the individual and unit records of the Texas State Guard and the Texas State Guard Honorary Reserve.

(b) Authorizes the governor to request for use of the Texas State Guard arms and equipment that the United States government possesses and can spare. Authorizes the governor, or the adjutant general if delegated the authority by the governor, to make available to the Texas State Guard state armories and available state property.

Sec. 437.309. TEXAS STATE GUARD HONORARY RESERVE. (a) Authorizes the governor, or adjutant general under the governor's authority and direction, to transfer to the Texas State Guard Honorary Reserve an officer or enlisted service member of the Texas State Guard who is physically disabled; is at least 60 years of age; or has served the federal or state military satisfactorily for at least 20 years.

(b) Authorizes the governor, or the adjutant general for a service member that is not a general officer, to advance the service member one grade or rank at the time of the transfer into the honorary reserve.

Sec. 437.310. TEXAS STATE GUARD UNIFORM AND INSIGNIA FUND. (a) Provides that a special revolving fund is established outside the state treasury to be known as the Texas State Guard uniform and insignia fund. Authorizes the fund to be used only to purchase uniforms and insignia to be used by members of the Texas State Guard. Requires the fund to be administered in accordance with Section 437.211.

(b) Provides that the fund consists of donations made to the fund; revenue received by the Texas State Guard from the sale of uniforms and insignia to members of the guard; and depository interest and investment income earned on money in the fund.

(c) Provides that, if any part of the fund remains unexpended and unobligated at the end of the state fiscal year, that amount is dedicated for the same purposes in the subsequent year. Prohibits money in the fund from being diverted for any other purpose.

SECTION 1.02. Transfers Subchapter J, Chapter 431, Government Code, to Chapter 437, Government Code, as added by this Act, redesignates it as Subchapter H, Chapter 437, Government Code, and amends it as follows:

SUBCHAPTER H. AWARDS

Sec. 437.351. TEXAS LEGISLATIVE MEDAL OF HONOR. Redesignates existing Section 431.131 as Section 437.351. (a) Changes references to person to service member.

(b)-(d) Makes conforming changes.

Sec. 437.352. LONE STAR MEDAL OF VALOR. Redesignates existing Section 431.352 as Section 437.352. Makes no further changes to this section.

Deletes existing Section 431.133 (Lone Star Distinguished Service Medal).

Deletes existing Section 431.134 (Other Awards).

Sec. 437.353. RECOMMENDATIONS. Redesignates existing Section 431.135 as Section 437.353. (a) Deletes existing text requiring a recommendation for award of the Lone Star Distinguished Service Medal to be forwarded through military channels to the adjutant general.

(b) Makes no change to this subsection.

(c) Requires the adjutant general, if the adjutant general determines that a case meets the criteria established by Section 437.352 for award of the Lone Star Medal of Valor, rather than the awarding of one of these medals, to by endorsement recommend to the governor the awarding of the medal. Deletes existing text requiring a letter of recommendation for award of the Lone Star Distinguished Service Medal to give an account of the exceptional service or achievement, facts, and extracts from official documents and photographs to support and amplify the facts. Makes nonsubstantive changes.

Sec. 437.354. AWARDING. Redesignates existing Section 431.136 as Section 437.354. Provides that the governor awards the Texas Legislative Medal of Honor as directed by the legislature under Section 437.351, rather than Section 437.131. Deletes existing text providing that the governor awards the Lone Star Medal of Valor, Lone Star Distinguished Service Medal, or any other award authorized by this subchapter on recommendation of the adjutant general.

Sec. 437.355. OTHER AWARDS. (a) Authorizes the governor or adjutant general, if delegated the authority, to adopt policies and rules relating to awarding:

(1) the Texas Purple Heart Medal, which is required to be awarded to a service member who, after September 11, 2001:

(A) was inducted into federal service from the Texas National Guard; and

(B) meets the criteria for an award of the federal Purple Heart Medal;

(2) the Texas Superior Service Medal, which is required to be awarded to:

(A) a service member of the Texas military forces who has completed 30 or more years of honorable state service or a combination of state and federal service and continually demonstrated superior performance and service while assigned to key leadership positions demanding responsibility; or

(B) a civilian who has contributed significant service to the Texas military forces;

(3) the Lone Star Distinguished Service Medal, which is required to be awarded to a member of the military forces of this state, another state, or the United States for exceptionally outstanding achievement or service to this state in performance of a duty of great responsibility while serving with the Texas military forces for whom the department receives a letter of recommendation for award of the Lone Star Distinguished Service Medal that:

(A) gives an account of the exceptional achievement or service; and

(B) includes facts and photographs, and extracts from official documents to support and amplify the facts;

(4) the Texas Outstanding Service Medal, which is required to be awarded to a service member of the military forces of this state, another state, or the United States who has performed service in a superior and clearly outstanding manner;

(5) the Texas Humanitarian Service Medal, which is required to be awarded to a service member who:

(A) does not meet the criteria for an award of the federal Humanitarian Service Medal;

(B) is a member of the Texas military forces; and

(C) while serving on state active duty or active duty under state authority in accordance with Title 32, United States Code, participates satisfactorily in defense support to a mission under civilian authority to protect life or property during or soon after a natural disaster or civil unrest in the state;

(6) the Texas Homeland Defense Service Medal, which is required to be awarded to a service member of the Texas military forces who served:

(A) on or after September 11, 2001;

(B) on state active duty or active duty under state authority in accordance with Title 32, United States Code; and

(C) satisfactorily in defense support to a mission in the state under civilian authority;

(7) the Federal Service Medal, which is required to be awarded to a service member who was inducted into federal service from the Texas military forces between June 15, 1940, and January 1, 1946, or after June 1, 1950, if the service was for more than 90 days;

(8) the Texas Combat Service Ribbon, which is required to be awarded to a service member of the Texas National Guard who served, after September 11, 2001, in a hostile fire zone as designated by the United States secretary of defense;

(9) the Texas Faithful Service Medal, which is required to be awarded to a member of the Texas military forces who has completed five years of honorable service during which the service member has shown fidelity to duty, efficient service, and great loyalty to this state;

(10) the Texas Medal of Merit, which is required to be awarded to a member of the military forces of this state, another state, or the United States who performs outstanding service or attains extraordinary achievement in behalf of the state or United States;

(11) the Texas State Guard Service Medal, which is required to be awarded to a service member who completes three consecutive years of honorable service in the Texas State Guard during which the service member has shown fidelity to duty, efficient service, and great loyalty to this state;

(12) the Texas Desert Shield/Desert Storm Campaign Medal, which is required to be awarded to a service member who was inducted into federal service from the Texas National Guard after August 1, 1990, in support of Operation Desert Shield or Operation Desert Storm, without regard to the place that the service member was deployed while serving on active federal military duty;

(13) the Texas Iraqi Campaign Medal, which is required to be awarded to a service member who was inducted into federal service from the Texas National Guard, without regard to the place that the service member was deployed while serving on active federal military duty, after:

(A) March 19, 2003, in support of Operation Iraqi Freedom; or

(B) August 31, 2010, in support of Operation New Dawn; and

(14) the Texas Afghanistan Campaign Medal, which is required to be awarded to a service member who was inducted into federal service from the Texas National Guard after October 6, 2001, in support of Operation Enduring Freedom, without regard to the place that the service member was deployed while serving on active federal military duty.

(b) Authorizes a person to be awarded only one Texas Superior Service Medal.

Sec. 437.356. POSTHUMOUS AWARDS. Redesignates existing Section 431.137 as Section 437.356. Makes no further change to this section.

Sec. 437.357. DESIGN; RIBBONS. Redesignates existing Section 431.138 as Section 437.357. (a) Requires TMD, rather than adjutant general, to design and have manufactured the medals, awards, decorations, and ribbons awarded under this subchapter and others that the adjutant general has approved for award.

(b) Authorizes TMD to purchase or replace medals, awards, decorations, and ribbons authorized under this subchapter for the recipient, the decedent's family, and nonprofit and governmental entities honoring the recipient or decedent.

(c) Makes a nonsubstantive change.

SECTION 1.03. Transfers Subchapter K, Chapter 431, Government Code, to Chapter 437, Government Code, as added by this Act, redesignates it as Subchapter I, Chapter 437, Government Code, and amends it as follows:

SUBCHAPTER I. ADMINISTRATIVE REVIEW AND JUDICIAL ENFORCEMENT

Sec. 437.451. DEFINITIONS. Redesignates existing Section 431.151 as Section 437.451. Makes no further change to this section.

Sec. 437.452. FILING OF COMPLAINT; FORM AND CONTENT; SERVICE. (a) Changes a reference to Section 431.006 (Reemployment of Person Called to Training or Duty, to Section 437.204.

(b) Makes no change to this subsection.

(c) Makes a conforming change.

(d)-(e) Makes no change to these subsections.

(f) Makes a conforming change.

Sec. 437.453. ALTERNATIVE DISPUTE RESOLUTION. Redesignates existing Section 431.153 as Section 437.453. Makes a conforming change.

Sec. 437.454. INVESTIGATION BY COMMISSION. Redesignates existing Section 431.154 as Section 437.454. Makes a conforming change.

Sec. 437.455. LACK OF REASONABLE CAUSE; DISMISSAL OF COMPLAINT. Redesignates existing Section 431.155 as Section 437.455. (a) Makes a conforming change.

(b) Makes no change to this subsection.

Sec. 437.456. DETERMINATION OF REASONABLE CAUSE; REVIEW BY PANEL. Redesignates existing Section 431.156 as Section 437.456. Makes a conforming change.

Sec. 437.457. RESOLUTION BY INFORMAL METHODS. Redesignates existing Section 431.157 as Section 437.457. (a) Makes a conforming change.

(b) Makes no change to this subsection.

Sec. 437.458. NOTICE OF DISMISSAL OR UNRESOLVED COMPLAINT. Redesignates existing Section 431.158 as Section 437.458. Makes no further change to this section.

Sec. 437.459. TEMPORARY INJUNCTIVE RELIEF. Redesignates existing Section 431.159 as Section 437.459. (a) Makes a conforming change.

(b)-(c) Makes no change to these subsections.

Sec. 437.460. CIVIL ACTION BY COMMISSION. Redesignates existing Section 431.160 as Section 437.460. (a) Makes a conforming change.

(b) Makes no change to this subsection.

Sec. 437.461. NOTICE OF COMPLAINANT'S RIGHT TO FILE CIVIL ACTION. Redesignates existing Section 431.161 as Section 437.461. (a) Provides that a complainant who receives notice under Section 437.458, rather than Section 431.158, that the complaint is dismissed or not resolved is entitled to request from the Texas Workforce Commission (TWC) a written notice of the complainant's right to file a civil action.

(b)-(d) Makes no change to these subsections.

Sec. 437.462. CIVIL ACTION BY COMPLAINANT. Redesignates existing Section 431.162 as Section 437.462. Makes no further change to this section.

Sec. 437.463. COMMISSION'S INTERVENTION IN CIVIL ACTION BY COMPLAINANT. Redesignates existing Section 431.163 as Section 437.463. Authorizes a court, after receipt of a timely application, to permit TWC to intervene in a civil action filed under Section 437.462, rather than Section 431.162, if before commencement of the action, TWC issued a determination of reasonable cause to believe that Section 437.204, rather than Section 431.006, was violated.

Sec. 437.464. ASSIGNMENT TO EARLY HEARING. Redesignates existing Section 431.164 as Section 437.464. Makes no further change to this section.

Sec. 437.465. INJUNCTION; EQUITABLE RELIEF. Redesignates existing Section 431.165 as Section 437.465. (a) Makes a conforming change.

(b)-(c) Makes no change to these subsections.

Sec. 437.466. COMPENSATORY AND PUNITIVE DAMAGES. Redesignates existing Section 431.166 as Section 437.466. (a)-(b) Makes conforming changes.

(c) Prohibits compensatory damages awarded under this section from including other relief authorized under Section 437.465(b), rather than Section 431.165(b).

(d)-(e) Makes no change to these subsections.

Sec. 437.467. ATTORNEY'S FEES; COSTS. Redesignates existing Section 431.167 as Section 437.467. (a)-(c) Makes no change to these subsections.

Sec. 437.468. COMPELLED COMPLIANCE. Redesignates existing Section 431.168 as Section 437.469. Makes no further change to this section.

Sec. 437.469. TRIAL DE NOVO. Redesignates existing Section 431.169 as Section 437.469. (a)-(b) Makes no change to these subsections.

ARTICLE 2. TEXAS MILITARY DEPARTMENT CONFORMING CHANGES

SECTION 2.01. Amends Section 7.111(a), Education Code, to change references to the adjutant general's department to TMD.

SECTION 2.02. Amends Section 411.121(b), Government Code, to change references to the adjutant general's department to TMD.

SECTION 2.03. Amends Section 421.021(a), Government Code, to provide that the Homeland Security Council is composed of the governor or the governor's designee, the speaker of the house of representatives or the speaker's designee, the lieutenant governor or the lieutenant governor's designee, and one representative of each of certain entities, appointed by the single statewide elected or appointed governing officer, administrative head, or chair, as appropriate, of the entity including TMD, rather than the adjutant general's department, and the Texas Military Preparedness Commission, rather than the Texas Strategic Military Planning Commission.

SECTION 2.04. Amends Section 432.072(a), Government Code, to change a reference to the adjutant general's department to TMD.

SECTION 2.05. Amends Section 432.109(a), Government Code, to change a reference to the adjutant general's department to TMD.

SECTION 2.06. Amends Section 432.192(b), Government Code, to change a reference to the adjutant general's department to TMD.

SECTION 2.07. Amends Section 432.194, Government Code, to change a reference to the adjutant general's department to TMD.

SECTION 2.08. Amends Section 434.153, Government Code, to change a reference to the adjutant general's department to TMD.

SECTION 2.09. Amends Section 1232.101(a), Government Code, to change a reference to the adjutant general's department to TMD.

SECTION 2.10. Amends Section 161.552(d), Health and Safety Code, to change a reference to the adjutant general's department to TMD.

SECTION 2.11. Amends Section 461.017(a), Health and Safety Code, as follows:

(a) Changes a reference to the adjutant general's department to TMD. Provides that the Drug Demand Reduction Advisory Committee is composed of five members of the public from different geographic regions of the state who have knowledge and expertise

in issues relating to reducing drug demand and who are appointed by the commissioner of state health services, rather than the Department of State Health Services, and one representative of an agency or office who is appointed by the executive director or commissioner of the agency or office and who is directly involved in the agency's or office's policies, programs, or funding activities relating to reducing drug demand including the Texas Juvenile Justice Department, rather than the Texas Juvenile Probation Commission.

SECTION 2.12. Amends Section 31.156(e), Natural Resources Code, to change a reference to the adjutant general's department to TMD.

SECTION 2.13. Amends Section 31.157(d), Natural Resources Code, to prohibit the commissioner of the general land office, if under TMD's, rather than the adjutant general's, report submitted as provided by Section 437.154, rather than Section 431.030, Government Code, TMD determines that real property under the management and control of TMD is used for military purposes, from recommending a real estate transaction involving that real property in the final report submitted as provided by Subsection (e) (relating to the date on which the final report is to be submitted).

SECTION 2.14. Amends Sections 74.404(b), (c), and (d), Property Code, as follows:

(b) Change a reference to the adjutant general's department to TMD.

(c)-(d) Makes conforming changes.

ARTICLE 3. CONFORMING AMENDMENTS

SECTION 3.01. Amends Section 721.002(a), Business & Commerce Code, to change a reference to Section 431.001 (Definitions), Government Code, to Section 437.001, Government Code.

SECTION 3.02. Amends Section 54.345(a), Education Code, to change a reference to Section 431.090 (Assistance for Tuition and Fees), Government Code, to Section 437.226, Government Code.

SECTION 3.03. Amends Section 411.121(a), Government Code, to change references to Section 431.022 (Adjutant General) to Section 437.001.

SECTION 3.04. Amends Section 411.1881(a), Government Code, to change a reference to Section 431.001 to Section 437.001.

SECTION 3.05. Amends Section 411.1951(a), Government Code, to change a reference to Section 431.001 to Section 437.001.

SECTION 3.06. Amends Section 418.006, Government Code, to change a reference to Section 431.085 (Liability of Member) to Section 437.222

SECTION 3.07. Amends Sections 421.061(a), (b), and (d), Government Code, as follows:

(a) Changes a reference to Section 431.085 to 437.222.

(b) Makes a conforming change.

(d) Makes a conforming change.

SECTION 3.08. Amends Section 661.903, Government Code, to change a reference to Section 431.0825 (Employees in National Guard; Emergency Leave) to Section 437.254.

SECTION 3.09. Amends Section 1232.1025(b), Government Code, to require the board of directors of the Texas Public Finance Authority (authority), after receiving a request under

Section 437.153, rather than Section 431.0292 (Borrowing Money; Issuing and Selling Bonds) or 431.0302(c) (relating to adjutant general requesting revenue bonds to pay for construction of buildings), to promptly issue and sell bonds in the name of the authority to provide the requested financing.

SECTION 3.10. Amends Section 2308.251(2), Government Code, to change a reference to Section 431.001 to Section 437.001.

SECTION 3.11. Amends Section 161.551(3), Health and Safety Code, to change a reference to Section 431.001, Government Code, to Section 437.001, Government Code.

SECTION 3.12. Amends Sections 775.039(d) and (e), Health and Safety Code, to change references to Section 431.005 (Leave of Absence for Public Officers and Employees), Government Code, to Section 437.202, Government Code.

SECTION 3.13. Amends Section 1001.076(a), Health and Safety Code, to change a reference to Section 431.001, Government Code, to Section 437.001, Government Code.

SECTION 3.14. Amends Section 408.0445(a), Labor Code, to change references to Section 431.104 (Compensation for Death or Disability), Government Code, to Section 437.227, Government Code, and Section 431.001, Government Code to Section 437.001.

SECTION 3.15. Amends Section 501.001(5), Labor Code, to change reference to Section 431.001, Government Code, to Section 437.001, Government Code.

SECTION 3.16. Amends Section 392.067(a), Local Government Code, to change a reference to Section 431.001, Government Code, to Section 437.001, Government Code.

SECTION 3.17. Amends Section 1804.001(1), Occupations Code, to change a reference to Section 431.001, Government Code, to Section 437.001, Government Code.

SECTION 3.18. Amends Section 31.121(a)(2), Parks and Wildlife Code, to change a reference to Section 431.001, Government Code, to Section 437.001, Government Code.

SECTION 3.19. Amends Section 32.54(a)(2), Penal Code, to change a reference to Section 431.001, Government Code, to Section 437.001, Government Code.

SECTION 3.20. Amends Sections 46.15(b), (d), and (f), Penal Code, as follows:

(b) Changes a reference to Section 431.001, Government Code, to Section 437.001, Government Code.

(d) Changes a reference to Section 431.029 (General Duties), Government Code, to Section 437.053, Government Code.

(f) Makes a conforming change.

SECTION 3.21. Amends Section 151.344, Tax Code, to change references to Section 431.040, Government Code, to Section 437.110, Government Code.

SECTION 3.22. Amends Section 521.1235(a), Transportation Code, to change a reference to Section 431.001, Government Code, to Section 437.001, Government Code.

SECTION 3.23. Amends Section 36.354(g), Utilities Code, as follows:

(g) Provides that, for purposes of this section, the term "military base" does not include a military base that is administered by an authority established by a municipality under Chapter 379B (Defense Base Development Authorities), Local Government Code or that is operated by or for the benefit of the Texas National Guard, as defined by Section 437.001, rather than Section 431.001, Government Code, unless the base is served by a

municipally owned utility owned by a city with a population of 650,000 or more. Deletes existing text providing that, for purposes of this section, the term "military base" does not include a military base that is administered by an authority established by a municipality under Chapter 378 (Neighborhood Empowerment Zone), Local Government Code, as added by Chapter 1221, Acts of the 76th Legislature, Regular Session, 1999.

ARTICLE 4. REPEALER AND EFFECTIVE DATE.

SECTION 4.01. Repealers: Subchapters A (General Provisions), B (Adjutant General's Department), C (Texas National Guard), D (Texas State Guard), E (Reserve Militia), F (Service and Duties), G (Disability or Death in the Line of Military Duty), H (Calling of Forces), and I (Arms and Equipment), Chapter 431, Government Code.

SECTION 4.02. Effective date: September 1, 2013.