

By: Flynn

H.B. No. 1542

A BILL TO BE ENTITLED

AN ACT

relating to the Texas military; imposing criminal penalties;
authorizing fees.

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

ARTICLE 1. TEXAS MILITARY

SECTION 1.01. Subtitle C, Title 4, Government Code, is
amended by adding Chapter 437 to read as follows:

CHAPTER 437. TEXAS MILITARY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 437.001. DEFINITIONS. In this chapter:

(1) "Active military service" means state active duty service, federally funded state active duty service, or federal active duty service. The term does not include service performed exclusively for training, such as basic combat training, advanced individual training, annual training, inactive duty training, and special training periodically made available to service members.

(2) "Adjutant general" means the military commander of the Texas military forces.

(3) "Department" means the Texas Military Department.

(4) "Employee" has the meaning assigned by Section 21.002, Labor Code.

(5) "Employer" has the meaning assigned by Section 21.002, Labor Code.

(6) "Executive director" means the administrative

1 head of the department.

2 (7) "Military duty" means any activity of a service
3 member performing a duty under a lawful military order, including
4 training.

5 (8) "Service member" means a resident of this state
6 who is a member or former member of the state military forces or a
7 component of the United States armed forces, including a reserve
8 component.

9 (9) "State active duty" means the performance of
10 military or emergency service for this state at the call of the
11 governor or the governor's designee.

12 (10) "State military forces" means the Texas military
13 forces.

14 (11) "State training and other duty" means the service
15 and training typically performed by service members in preparation
16 for state active duty. The term includes training for man-made and
17 natural disaster response and maintenance of equipment and
18 property.

19 (12) "Temporary state employee" means a service member
20 who is not a full-time or part-time state employee and who is on
21 state active duty.

22 (13) "Texas Military Department" means the state
23 agency charged with administrative activities in support of the
24 Texas military forces.

25 (14) "Texas military forces" means the Texas National
26 Guard, the Texas State Guard, and any other military force
27 organized under state law.

1 (15) "Texas National Guard" means the Texas Army
2 National Guard and the Texas Air National Guard.

3 (16) "Texas State Guard" means the volunteer military
4 forces that provide community service and emergency response
5 activities for this state, as organized under the Second Amendment
6 to the United States Constitution, and operating as a defense force
7 authorized under 32 U.S.C. Section 109.

8 (17) "Unit" means any organized group of the Texas
9 military forces that has a designated commander.

10 (18) "Unit fund" means:

11 (A) money held by a military unit to support the
12 service members in the military unit while serving in the Texas
13 military forces;

14 (B) the state post exchange services account; or

15 (C) the billeting account.

16 Sec. 437.0011. REFERENCE IN OTHER LAW. A reference in other
17 law to the adjutant general's department means the Texas Military
18 Department.

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

25 (b) If the governor is unable to perform the duties of
26 commander-in-chief, the adjutant general shall command the Texas
27 military forces, unless the state constitution or other state law

1 requires the lieutenant governor or the president of the senate to
2 perform the duties of governor.

3 Sec. 437.003. GOVERNOR'S MILITARY APPOINTMENTS. (a) The
4 governor, with the advice and consent of the senate, shall appoint
5 an adjutant general to a two-year term expiring February 1 of each
6 even-numbered year. The adjutant general is responsible for
7 leading and managing the Texas military forces. The adjutant
8 general is subordinate only to the governor in matters pertaining
9 to the Texas military forces. The adjutant general's rank is
10 assigned at the discretion of the governor and may not exceed
11 lieutenant general. Federal recognition is at the rank authorized
12 by the National Guard Bureau. The adjutant general may be referred
13 to as the commanding general of the Texas military forces.

14 (b) On recommendation of the adjutant general, the governor
15 shall appoint a deputy adjutant general for army, a deputy adjutant
16 general for air, and the commander of the Texas State Guard. The
17 deputy adjutants general and commander serve until replaced. To be
18 qualified for appointment as a deputy adjutant general or
19 commander, a service member must have the qualifications required
20 for appointment as adjutant general.

21 (c) The governor shall appoint, commission, and assign the
22 Texas State Guard general officers. The governor may remove or
23 reassign an officer. To be eligible for appointment as a general
24 officer, a service member must have:

25 (1) been a federally recognized officer of not less
26 than field grade of the Texas National Guard or a regular or reserve
27 component of the United States military or served at least 15 years

1 of combined service as a commissioned officer in the Texas military
2 forces or a regular or reserve component of the United States
3 military; and

4 (2) served at least three years as a commissioned
5 officer in the Texas State Guard.

6 (d) The governor may delegate the powers granted by
7 Subsection (c) to the adjutant general.

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

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

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

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

26 (e) The governor may delegate the powers granted by this
27 section to the adjutant general.

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

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

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

15 (d) A service member called to state active duty or to state
16 training and other duty has the rights, privileges, duties,
17 functions, and authorities conferred or imposed by state law.

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

23 Sec. 437.007. OFFICERS. (a) The governor shall appoint and
24 commission officers of the Texas National Guard. To be eligible for
25 appointment, a service member must be qualified under United States
26 law and regulations.

27 (b) The adjutant general shall appoint and commission

1 officers, other than a general officer, in the Texas State Guard. To
2 be eligible for appointment, a service member must be qualified
3 under state guard rules and be recommended for appointment by the
4 commander of the state guard.

5 (c) An officer appointed under this section shall take and
6 subscribe the official oath.

7 Sec. 437.008. ENLISTMENT AND APPOINTMENT. (a) Federal law
8 prescribes the terms and the qualifications and requirements for
9 enlistment and appointment in the Texas National Guard. The
10 governor and legislature may prescribe additional terms,
11 qualifications, and requirements that do not conflict with federal
12 law.

13 (b) Enlistment in the Texas State Guard is prescribed by
14 Subchapter G.

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

22 SUBCHAPTER B. TEXAS MILITARY DEPARTMENT

23 Sec. 437.051. SUNSET PROVISION. The department is subject
24 to Chapter 325 (Texas Sunset Act). Unless continued in existence as
25 provided by that chapter, the department is abolished and this
26 subchapter expires September 1, 2019.

27 Sec. 437.052. ADJUTANT GENERAL: JURISDICTION, DIVISION OF

1 RESPONSIBILITIES, AND QUALIFICATIONS. (a) The adjutant general
2 exercises the jurisdiction and powers conferred by this subtitle.
3 The adjutant general is the governing officer, policy maker, and
4 head of the department.

5 (b) The adjutant general shall adopt and implement rules or
6 policies that clearly separate the adjutant general's
7 responsibilities from the administrative responsibilities of the
8 department's executive director and staff.

9 (c) To be eligible for appointment as adjutant general, a
10 service member must:

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

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

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

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

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

27 Sec. 437.053. ADJUTANT GENERAL: DUTIES. The adjutant

1 general shall:

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

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

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

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

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

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

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

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

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

25 (10) prescribe general rules for the maintenance of
26 supplies and for the transportation and distribution of supplies
27 from the place of purchase to camps, stations, companies, or other

1 necessary places of safekeeping;

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

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

8 Sec. 437.0531. EQUAL EMPLOYMENT OPPORTUNITY POLICY
9 STATEMENT. The adjutant general shall adopt a written policy
10 statement to implement a program of equal employment opportunity
11 under which all personnel transactions are made without regard to
12 race, color, disability, sex, religion, age, or national origin.
13 The policy statement must include:

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

17 (2) a comprehensive analysis of the department's
18 workforce that meets federal and state laws, rules, and regulations
19 and instructions directly adopted from those laws, rules, and
20 regulations;

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

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

1 Sec. 437.054. ADJUTANT GENERAL: GENERAL POWERS. (a) The
2 adjutant general is the decision-making authority on all matters
3 concerning the location and maintenance of military forces and
4 facilities in this state. The adjutant general may set priorities
5 for the construction, renovation, repair, and maintenance of Texas
6 military forces armories, facilities, and improvements owned or
7 leased by this state. The adjutant general in this capacity is a
8 public authority and a body politic and corporate and has all powers
9 necessary for the acquisition, construction, rental, control,
10 maintenance, operation, and disposition of Texas military forces
11 facilities and real property and all associated property and
12 equipment.

13 (b) The adjutant general may execute a cooperative
14 agreement with the National Guard Bureau and an interagency
15 military agreement with a federal, state, or local governmental or
16 quasi-governmental agency.

17 (c) The adjutant general may delegate the authority granted
18 under this section in whole or in part.

19 Sec. 437.055. SEAL. The seal of the adjutant general
20 consists of a five-pointed star with "Adjutant General, State of
21 Texas" around the margin.

22 Sec. 437.056. MANDATORY TRAINING FOR ADJUTANT GENERAL. (a)
23 Before the adjutant general may assume the duties of the office and
24 before the adjutant general may be confirmed by the senate, the
25 adjutant general must complete at least one course of the training
26 program established under this section.

27 (b) A training program established under this section must

1 provide information to the adjutant general regarding:

2 (1) this chapter;

3 (2) the federal and state programs operated by the
4 department;

5 (3) the federal and state roles and functions of the
6 department;

7 (4) the rules of the department, with an emphasis on
8 disciplinary and investigatory authority rules;

9 (5) the current budget for the department, with
10 emphasis on state and federal funds;

11 (6) the results of the most recent formal federal and
12 state audits of the department;

13 (7) the requirements of:

14 (A) Chapter 552; and

15 (B) the federal Freedom of Information Act (5
16 U.S.C. Section 552);

17 (8) the requirements of the conflict-of-interest laws
18 and other laws relating to public officials;

19 (9) any applicable ethics policies adopted by the
20 department or the Texas Ethics Commission; and

21 (10) the requirements and development of the Master
22 Cooperative Agreement between this state and the federal
23 government.

24 Sec. 437.057. DEPUTY ADJUTANTS GENERAL. (a) A deputy
25 adjutant general has the rank prescribed by the governor, not to
26 exceed the grade authorized for federal recognition in the
27 position. A deputy adjutant general may not be promoted to a rank

1 higher than that of the adjutant general. A deputy adjutant general
2 is entitled to the rights, privileges, amenities, and immunities
3 granted officers of that rank in the Texas National Guard. A deputy
4 adjutant general may be removed from office by the governor.

5 (b) A deputy adjutant general shall assist the adjutant
6 general by performing assigned duties. If the adjutant general is
7 dead, absent, or unable to act, the deputy adjutant general who is
8 senior in rank, including tenure in that position and grade, shall
9 perform the duties of the adjutant general.

10 (c) Each deputy adjutant general must complete the training
11 required of the adjutant general as prescribed by Section 437.056
12 not later than the 60th day after the date of appointment.

13 Sec. 437.058. GENERAL OFFICERS. (a) The adjutant general
14 may appoint as general officers an assistant deputy adjutant
15 general for army, an assistant deputy adjutant general for air, an
16 assistant deputy adjutant general for homeland security, and an
17 assistant deputy adjutant general for government affairs.

18 (b) A general officer may not be promoted to a rank higher
19 than that of the adjutant general.

20 (c) A general officer appointed under this section is
21 responsible to and serves at the pleasure of the adjutant general.

22 (d) The assistant deputy adjutant general for the army shall
23 support the deputy adjutant general for the army, represent the
24 command staff at events as needed, and manage the activities
25 assigned by the adjutant general or the deputy adjutant general for
26 the army.

27 (e) The assistant deputy adjutant general for the Army

1 National Guard or the Air National Guard, as determined by the
2 adjutant general, shall:

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

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

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

17 (g) The Texas military forces shall have at least one
18 traditional Texas Air National Guard general officer and two
19 traditional Texas Army National Guard general officers to support
20 the operation and command of the Texas National Guard.

21 Sec. 437.059. ADJUTANT GENERAL APPOINTMENTS. The adjutant
22 general, as the adjutant general determines appropriate and with
23 available funds, may appoint full-time employees of the department,
24 traditional national guard members, state guard volunteers, or
25 federal employees.

26 Sec. 437.060. CONFLICT OF INTEREST PROVISIONS. (a) A
27 person may not be appointed adjutant general, a deputy adjutant

1 general, a general officer, judge advocate general, or executive
2 director if the person is required to register as a lobbyist under
3 Chapter 305 because of the person's activities for compensation on
4 behalf of a profession related to the operation of the department.

5 (b) An officer, employee, or paid consultant of a Texas
6 trade association in the field of defense or veterans affairs may
7 not be appointed adjutant general, a deputy adjutant general, a
8 general officer, judge advocate general, or executive director.

9 (c) A person who is the spouse of an officer, manager, or
10 paid consultant of a Texas trade association in the field of defense
11 or veterans affairs may not be appointed adjutant general, a deputy
12 adjutant general, a general officer, judge advocate general, or
13 executive director.

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

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

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

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

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

27 (4) is found to have violated ethical standards of

1 conduct of the federal government, this state, or the department;
2 or

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

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

8 (c) If a potential ground for removal exists, the deputy
9 adjutant general with the longest tenure in that position in the
10 department shall notify the governor that a potential ground for
11 removal exists.

12 Sec. 437.062. SALARIES. (a) The adjutant general is
13 entitled to a salary in the amount designated in the General
14 Appropriations Act.

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

19 SUBCHAPTER C. TEXAS MILITARY DEPARTMENT OPERATIONS

20 Sec. 437.101. EXECUTIVE DIRECTOR. (a) The executive
21 director is an employee of the department and serves at the pleasure
22 of the adjutant general.

23 (b) Subject to Sections 437.052 and 437.054, the executive
24 director may enter into contracts related to the purposes or duties
25 of the department and may have and use a corporate seal.

26 (c) The executive director is responsible for the daily
27 administration of the department and the operational compliance

1 with the cooperative agreements between the department and the
2 National Guard Bureau.

3 Sec. 437.102. DEPARTMENT PERSONNEL. (a) The adjutant
4 general may hire employees as necessary to carry on the operations
5 of the department.

6 (b) The executive director or the executive director's
7 designee shall provide to the adjutant general and to department
8 employees, as often as necessary, information regarding the
9 requirements for office or employment under this chapter, including
10 information regarding a person's responsibilities under applicable
11 laws relating to standards of conduct for state officers or
12 employees.

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

18 (b) For good cause, the adjutant general may exempt a
19 position from the requirement under Subsection (a) by placing a
20 letter stating the reason for the exemption in the state human
21 resources files at the department.

22 Sec. 437.104. CAREER LADDER PROGRAM; PERFORMANCE
23 EVALUATIONS. (a) The executive director shall develop a career
24 ladder program. The program must require intra-agency postings of
25 all non-entry level positions concurrently with any public posting.

26 (b) The executive director shall develop a system of
27 employee performance evaluations. The system must require that

1 evaluations be conducted at least annually. All merit pay for
2 department employees must be based on the system established under
3 this subsection.

4 Sec. 437.105. AUTHORITY TO MAKE DIFFERENTIAL PAYMENTS. The
5 department may pay an employee additional compensation for duty
6 hours other than Monday through Friday normal business hours or for
7 the ability to legally carry weapons. The department by rule shall
8 establish the classification, procedures, and amount of the
9 additional compensation. The department may make differential
10 payments only if money is available to pay those amounts.

11 Sec. 437.106. HISTORICAL PRESERVATION OF RECORDS AND
12 PROPERTY. Except as provided by other law and in accordance with
13 all applicable federal and state requirements, the department shall
14 preserve all historically significant military records or property
15 in a military museum in this state.

16 Sec. 437.107. REPORTS. (a) The department annually shall
17 submit to the governor and the presiding officer of each house of
18 the legislature a complete and detailed written report accounting
19 for all funds received and disbursed by the department during the
20 preceding fiscal year. The report must be in the form and reported
21 in the time provided by the General Appropriations Act.

22 (b) The department shall provide to the governor in December
23 of each even-numbered year:

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

27 (2) a statement of the number, condition, and

1 organization of the Texas military forces;

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

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

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

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

14 Sec. 437.108. TECHNOLOGY POLICY. The department shall
15 develop and implement a policy requiring the executive director and
16 department's employees to research and propose appropriate
17 technological solutions to improve the department's ability to
18 perform its functions. The technological solutions must:

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

21 (2) ensure that persons who want to use the
22 department's services are able to:

23 (A) interact with the department through the
24 Internet; and

25 (B) access any service that can be provided
26 effectively through the Internet; and

27 (3) be cost-effective and developed through the

1 department's planning processes.

2 Sec. 437.109. EXEMPTION FROM CERTAIN STATE ACTIVITIES. (a)

3 The department is exempt from the provisions of Chapter 2054
4 relating to the oversight of information resources and information
5 resource manager provisions to the extent the National Guard Bureau
6 and the Department of Defense provide information technology and
7 communications support to the department.

8 (b) The department is exempt from the review and oversight
9 of the State Office of Risk Management as prescribed by Chapter 412,
10 Labor Code, to the extent the covered programs are federally
11 managed and the cost is reimbursed to this state by the National
12 Guard Bureau.

13 (c) Notwithstanding any other law, a service member
14 considered to be a temporary state employee is not considered to be
15 an employee of the department for the purpose of counting the number
16 of full-time equivalent positions authorized for the department in
17 the General Appropriations Act.

18 Sec. 437.110. POST EXCHANGES ON STATE MILITARY PROPERTY.

19 (a) The department may establish and contract for the operation of
20 not more than three military-type post exchanges similar to those
21 operated by the armed forces of the United States on any real
22 property under the management and control of the department. A post
23 exchange may sell, lease, or rent goods and services, including
24 firearms, tobacco products, prepared foods, and beer and wine but
25 not distilled spirits. The department may designate facilities
26 located on state property to use for purposes of this section.

27 (b) The adjutant general shall adopt rules to govern post

1 exchanges established under this section that are similar to the
2 procedures, policies, and restrictions governing exchanges of the
3 Army and Air Force Exchange Service, including rules that require
4 an individual to show identification indicating the individual is
5 qualified to buy, lease, or rent goods at the post exchange.

6 (c) The department shall contract with a person to operate a
7 post exchange created under this section.

8 (d) A post exchange may sell, lease, or rent goods and
9 services only to:

10 (1) active, retired, and reserve members of the United
11 States armed services;

12 (2) active and retired members of the state military
13 forces;

14 (3) full-time employees of the adjutant general's
15 department; and

16 (4) dependents of an individual described by this
17 subsection.

18 (e) The post exchange services account is a unit fund under
19 Section 437.211. For purposes of Section 437.211, the commander is
20 the installation commander. The post exchange services account is
21 exempt from the application of Sections 403.095 and 404.071. The
22 account consists of:

23 (1) money received from the operation of post
24 exchanges created under this section; and

25 (2) all interest attributable to money held in the
26 account.

27 (f) A post exchange created under this section may sell

1 goods and services, including beer and wine but not distilled
2 spirits, for off-premises consumption if the operator of the
3 exchange holds the appropriate license or permit issued by the
4 Texas Alcoholic Beverage Commission. The licensee or permittee
5 shall comply in all respects with the Alcoholic Beverage Code and
6 the rules of the Texas Alcoholic Beverage Commission.

7 (g) Chapter 94, Human Resources Code, does not apply to
8 vending facilities operated at a post exchange.

9 Sec. 437.111. DONATIONS. (a) Except as provided by
10 Subsections (d) and (e), all money paid to the department under this
11 chapter is subject to Subchapter F, Chapter 404.

12 (b) The department may accept funds, property, or services
13 donated by any public or private entity, including:

14 (1) a state agency or department;

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

17 (3) a special purpose district or authority.

18 (c) The department may solicit and accept gifts, grants, or
19 donations from any private or public entity to support the Texas
20 military forces or the Texas Military Forces Museum and may spend
21 the proceeds consistent with donor limitations and for the use of
22 the Texas military forces, the museum, or the department.

23 (d) The department may accept a donation or transfer of
24 funds from the federal government directly or through another
25 agency or from an agency or political subdivision of this state.
26 The funds shall be deposited with the comptroller. The funds may be
27 used for the legal purposes of the department as provided in the

1 donation or transfer. The comptroller shall make payments from the
2 funds on a properly drawn warrant issued by the comptroller on
3 request of the adjutant general and approval of the governor under
4 rules adopted by the comptroller.

5 (e) A unit may accept funds for the benefit of a particular
6 military unit in a unit fund as prescribed in Section 437.211.

7 Sec. 437.112. INFORMATION OF INTEREST; COMPLAINTS. (a) The
8 department shall prepare information of public interest describing
9 the functions of the department and the procedures by which
10 complaints are filed with and resolved by the department. The
11 department shall make the information available to the public and
12 appropriate state agencies.

13 (b) The adjutant general by rule shall establish methods by
14 which the public and members of the Texas National Guard are
15 notified of the name, mailing address, and telephone number of the
16 department for the purpose of directing complaints to the
17 department.

18 (c) The department shall maintain a file on each written
19 complaint filed with the department. The file must include:

20 (1) the name of the person who filed the complaint;

21 (2) the date the complaint is received by the
22 department;

23 (3) the subject matter of the complaint;

24 (4) the name of each person contacted in connection
25 with the complaint;

26 (5) a summary of the results of the review or
27 investigation of the complaint; and

1 (6) an explanation of the reason the file was closed,
2 if the department closed the file without taking action other than
3 to investigate the complaint.

4 (d) The department shall provide to the person filing the
5 complaint and to each person who is the subject of the complaint a
6 copy of the department's policies and procedures relating to
7 complaint investigation and resolution unless the notice would
8 jeopardize an undercover investigation.

9 (e) The department, at least quarterly until final
10 disposition of the complaint, shall notify the person filing the
11 complaint and each person who is the subject of the complaint of the
12 status of the investigation unless the notice would jeopardize an
13 undercover investigation.

14 Sec. 437.113. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

15 (a) The department shall develop and implement a policy to
16 encourage the use of appropriate alternative dispute resolution
17 procedures under Chapter 2009 to assist in the resolution of
18 internal and external disputes within the department's
19 jurisdiction.

20 (b) The department's procedures relating to alternative
21 dispute resolution must conform, to the extent possible, to any
22 model guidelines issued by the State Office of Administrative
23 Hearings for the use of alternative dispute resolution by state
24 agencies.

25 (c) The department shall designate a trained person to:

26 (1) coordinate the implementation of the policy
27 adopted under Subsection (a);

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

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

6 Sec. 437.114. SUPPLIES. (a) The department may purchase
7 from money appropriated to the department and keep ready for use,
8 store, or issue a necessary amount of ordnance, subsistence,
9 medical, signal, engineering, and other supplies.

10 (b) The department may dispose of or exchange supplies owned
11 by this state that are unfit for further use as the department
12 determines is in the best interest of the Texas military forces.

13 (c) The department shall provide each state military unit
14 with the arms, equipment, instruction and record books, and other
15 supplies necessary for performance of the duties required of the
16 unit by this chapter. The unit shall keep the property in proper
17 repair and good condition. The department may execute bonds in the
18 name of this state as necessary to obtain this property.

19 Sec. 437.115. BIDS. The department shall adopt rules
20 governing the preparation, submission, and opening of bids for
21 contracts.

22 Sec. 437.116. PROGRAM ACCESSIBILITY. The department shall
23 comply with federal and state laws related to program
24 accessibility. The department shall also prepare and maintain a
25 written plan that describes how a person who does not speak English
26 can be provided reasonable access to the department's programs and
27 services.

1 Sec. 437.117. TEXAS CHALLENGE ACADEMY. (a) For each
2 student enrolled in the Texas Challenge Academy, the department is
3 entitled to allotments from the Foundation School Program under
4 Chapter 42, Education Code, as if the academy were a school district
5 without a tier one local share for purposes of Section 42.253,
6 Education Code.

7 (b) The department shall contract with an appropriate
8 school district for the provision of educational services for
9 students enrolled in the academy. The school district with which
10 the department contracts shall be responsible for ensuring
11 compliance with any applicable regulatory requirements imposed
12 under the Education Code and enforced by the commissioner of
13 education and the Texas Education Agency.

14 Sec. 437.118. USE OF FUNDS TO SUPPORT MILITARY HOUSING AND
15 TRAINING. (a) The department may use appropriated money to
16 purchase food and beverages for charged military housing and
17 training functions required of the Texas military forces.

18 (b) The department shall maintain and operate charged
19 military housing in accordance with policies and rules adopted by
20 the adjutant general and published on the department's Internet
21 website. The department shall deposit room fees in a billeting
22 account.

23 SUBCHAPTER D. REAL PROPERTY MANAGEMENT

24 Sec. 437.151. REAL PROPERTY ADVISORY COUNCIL. (a) The real
25 property advisory council is composed of the following eight
26 members:

27 (1) two deputy adjutants general;

1 (2) the executive director; and

2 (3) five public members who are not actively serving
3 in the Texas National Guard and who have experience in
4 architecture, construction management, engineering, property
5 management, facilities maintenance management, real estate
6 services, or real property law.

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

9 (c) The adjutant general by rule shall specify the
10 requirements, term limits, and expectations for the advisory
11 council.

12 (d) The adjutant general shall designate one of the public
13 members of the advisory council as the presiding officer of the
14 advisory council to serve in that capacity at the pleasure of the
15 adjutant general.

16 (e) The director of the department's facilities management
17 office is responsible for administration and coordination of
18 council meetings and preparation of materials with input from the
19 council membership.

20 (f) The council shall meet at least two times each fiscal
21 year to advise the department on:

22 (1) the facility master plan;

23 (2) the long-range construction plan;

24 (3) the selection of architecture and engineering
25 firms;

26 (4) requests for bonding authority for state military
27 facilities;

1 (5) the disposal or sale of department property;

2 (6) surface leases of department property;

3 (7) natural resources management plans; and

4 (8) environmental studies and agreements.

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

8 (h) Each member of the advisory council is entitled to
9 reimbursement for meals, lodging, transportation, and incidental
10 expenses:

11 (1) under the rules for reimbursement that apply to
12 the member's office or employment, if the member is a state officer
13 or employee; or

14 (2) as provided by the General Appropriations Act if
15 the member is not a state officer or employee.

16 (i) The advisory council is not subject to Chapter 2110.

17 Sec. 437.152. PUBLIC COMMENT. The advisory council shall
18 develop and implement policies that provide the public with a
19 reasonable opportunity to at least annually appear before the
20 council and speak on any issue related to the construction, repair,
21 and maintenance of Texas military forces armories, facilities, and
22 improvements under the jurisdiction of the department.

23 Sec. 437.153. BORROWING MONEY; ISSUING AND SELLING BONDS.

24 (a) The department may borrow money in the amount and under
25 circumstances allowed by the Texas Constitution and may request the
26 Texas Public Finance Authority, on behalf of the department, to
27 issue and sell fully negotiable bonds to acquire, construct,

1 remodel, repair, or equip one or more facilities.

2 (b) The Texas Public Finance Authority may sell the bonds in
3 any manner it determines to be in the best interest of the
4 department, except that it may not sell a bond that has not been
5 approved by the attorney general and registered with the
6 comptroller.

7 Sec. 437.154. REPORT OF MILITARY USE OF PROPERTY. (a) If
8 the department receives notice from the General Land Office as
9 provided by Section 31.156, Natural Resources Code, the department
10 shall produce a report evaluating the military use of any real
11 property under the management and control of the department.

12 (b) Not later than August 1 of the year in which the
13 commissioner of the General Land Office submits a report as
14 provided by Section 31.157, Natural Resources Code, the department
15 shall submit a preliminary report of the report required under
16 Subsection (a) to the commissioner of the General Land Office
17 identifying the real property used for military purposes. Not later
18 than September 1 of the year in which the commissioner of the
19 General Land Office submits a report as provided by Section 31.157,
20 Natural Resources Code, the department shall submit the final
21 report as required by Subsection (a) to:

22 (1) the governor;

23 (2) the presiding officer of each house of the
24 legislature;

25 (3) the Legislative Budget Board; and

26 (4) the governor's budget office.

27 Sec. 437.155. ACQUISITION; MANAGEMENT; PLEDGE OF RENTS,

1 ISSUES, AND PROFITS. (a) The department by gift, lease, or purchase
2 may acquire real property, including leasehold estates in real
3 property, for any purpose the department considers necessary for
4 the use of the Texas military forces.

5 (b) The department may acquire furniture and equipment
6 suitable for facility purposes by gift, purchase, or construction.

7 (c) The department may:

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

9 (2) after the analysis required under Section
10 437.163(b), if applicable, lease or sell the property; and

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

13 (d) The department may own and operate or contract with a
14 vendor to provide temporary lodging facilities for use of military
15 and retired military personnel. The department shall publish
16 information on the department's Internet website outlining the
17 operation, use, and fee structure for temporary lodging facilities.
18 Out of the money received for operating the temporary lodging
19 facilities, the department may procure the necessary furnishings,
20 goods, and services to manage and operate the temporary lodging
21 facilities.

22 (e) The adjutant general, assistant deputy adjutant general
23 for the air, and assistant deputy adjutant general for the army may
24 reside in state-owned housing and are exempt from paying housing
25 costs. The department may allocate existing department housing to
26 other department employees who demonstrate a need based on location
27 and job description at a rate in accordance with the General

1 Appropriations Act.

2 (f) The department shall deposit proceeds from any land
3 lease or other revenue under this section, other than daily fee
4 deposits that qualify as unit funds, into the state treasury to the
5 credit of the department for the use and benefit of the facilities
6 of the Texas military forces. If any part of these funds remains
7 unexpended and unobligated at the end of the state fiscal year, that
8 amount is dedicated for the same purposes in the subsequent year.
9 Money in the fund may not be diverted for any other purpose.

10 Sec. 437.156. CONSTRUCTION; FURNISHING AND EQUIPMENT. (a)
11 The department may construct buildings on real property held by the
12 department in fee simple or otherwise. The department may furnish
13 and equip the buildings.

14 (b) The department may construct a building on land
15 comprising a site licensed or otherwise provided to this state by
16 the federal government. If the department constructs a building on
17 that site, the site becomes the property of the department for all
18 purposes of this chapter as if the site had been acquired by gift to
19 or purchase by the department.

20 (c) Department buildings that are constructed or undergoing
21 major renovations must include information distribution system
22 provisions in the contract.

23 Sec. 437.157. LEASE OF PROPERTY. (a) In this section,
24 "lease" includes a sublease.

25 (b) After the analysis required under Section 437.163(b), if
26 applicable, the department may lease property to any person.

27 (c) The law requiring notice and competitive bids does not

1 apply to a lease under this section.

2 Sec. 437.158. TRANSFER TO STATE. When property that the
3 Texas Public Finance Authority owns in accordance with Section
4 437.159 is fully paid for and free of liens and all obligations
5 incurred in connection with the acquisition and construction of the
6 property have been fully paid, the Texas Public Finance Authority
7 shall donate and transfer the property to the department by
8 appropriate instruments of transfer. The instruments of transfer
9 shall be kept in the custody of the department.

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

18 Sec. 437.160. DONATION OF PROPERTY. The governing body of a
19 county or municipality, on behalf of the county or municipality,
20 may donate real property to the department for use as a Texas
21 military forces facility. The donation may be in fee simple or
22 otherwise.

23 Sec. 437.161. TAX STATUS OF PROPERTY. Property held by the
24 department and rents, issues, and profits from the property are
25 exempt from taxation by the state, a municipality, a county or other
26 political subdivision, or a taxing district of this state.

27 Sec. 437.162. FACILITY ACCESSIBILITY. The department for

1 new facility construction shall comply with federal and state laws
2 related to facility accessibility.

3 Sec. 437.163. DISPOSAL OF CERTAIN SURPLUS REAL PROPERTY.

4 (a) When department property that is owned or transferred to this
5 state is fully paid for and free of liens incurred in connection
6 with the acquisition and construction of the property, the
7 department may, after conducting the analysis required under this
8 section, if applicable, properly dispose of the property that is
9 designated by the adjutant general as surplus.

10 (b) Before granting or conveying an interest in real
11 property under this subchapter, the department must conduct an
12 analysis to determine whether the disposal of property is in the
13 best interests of the Texas military forces and evaluate whether
14 each unit of the Texas military forces has adequate facility space
15 to ensure that ongoing operations are maintained.

16 (c) To accomplish the purposes of Subsection (a), the
17 department may remove, dismantle, or sever any of the property or
18 authorize its removal, dismantling, or severance.

19 (d) If property under this section is designated as surplus,
20 the department may sell the property to the highest and best bidder
21 for cash using either sealed bid or public auction. The department
22 may reject any or all bids. If the site is considered historical,
23 the department may evaluate other factors relating to ensuring the
24 long-term care of the site when selecting the winning bidder.

25 (e) If property under this section is designated for
26 exchange, the department may exchange the property for one or more
27 parcels of land equal to or exceeding the value of the property to

1 be exchanged.

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

5 (g) The department may:

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

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

12 (h) The department shall deposit proceeds of sales under
13 this section in the state treasury to the credit of the department
14 for the use and benefit of the Texas military forces.

15 SUBCHAPTER E. TEXAS MILITARY FORCES

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

23 Sec. 437.202. LEAVE OF ABSENCE FOR PUBLIC OFFICERS AND
24 EMPLOYEES. (a) Except as provided by Subsections (b) and (c), a
25 person who is an officer or employee of this state, a municipality,
26 a county, or another political subdivision of this state and who is
27 a member of the Texas military forces, a reserve component of the

1 armed forces, or a member of a state or federally authorized urban
2 search and rescue team is entitled to a paid leave of absence from
3 the person's duties on a day on which the person is engaged in
4 authorized training or duty ordered or authorized by proper
5 authority for not more than 15 workdays in a federal fiscal year.
6 During a leave of absence, the person may not be subjected to loss
7 of time, efficiency rating, personal time, sick leave, or vacation
8 time.

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

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

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

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

25 Sec. 437.204. REEMPLOYMENT OF SERVICE MEMBER CALLED TO
26 TRAINING OR DUTY. (a) An employer may not terminate the employment
27 of an employee who is a member of the state military forces of this

1 state or any other state because the employee is ordered to
2 authorized training or duty by a proper authority. The employee is
3 entitled to return to the same employment held when ordered to
4 training or duty and may not be subjected to loss of time,
5 efficiency rating, vacation time, or any benefit of employment
6 during or because of the absence. The employee, as soon as
7 practicable after release from duty, must give written or actual
8 notice of intent to return to employment.

9 (b) A violation of this section is an unlawful employment
10 practice. A person injured by a violation of this section may file
11 a complaint with the Texas Workforce Commission civil rights
12 division under Subchapter J.

13 Sec. 437.205. OATH. (a) A commissioned officer of the
14 Texas military forces may administer oaths for purposes of military
15 administration. The officer's signature, without seal, and the
16 title of the officer's assignment is prima facie evidence of the
17 officer's authority.

18 (b) A person appointed, enlisted, or drafted in the Texas
19 military forces shall take and subscribe an oath prescribed by the
20 adjutant general.

21 Sec. 437.206. COMMISSIONS. (a) An initial state commission
22 in the Texas military forces must be:

- 23 (1) in the name and by authority of this state;
24 (2) sealed with the state seal;
25 (3) signed by the governor and attested by the
26 secretary of state;
27 (4) recorded by the Texas military forces; and

1 (5) conferred without fee.

2 (b) On the recommendation of the commanding officer or
3 noncommissioned officer of the Texas military forces, the governor
4 may confer on the officer or noncommissioned officer a brevet of a
5 grade higher than the ordinary commission or brevet held by the
6 officer or noncommissioned officer for gallant conduct or
7 meritorious military service. The adjutant general shall specify
8 the criteria for gallant conduct or meritorious military service.

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

13 (d) A commission under Subsection (b) or (c) carries only
14 the privileges or rights allowed for similar commissions in the
15 military service of the United States.

16 (e) The governor, without examination, may appoint and
17 confer a brevet of second lieutenant on an enlisted service member
18 who has served well and faithfully in the Texas military forces for
19 25 years or more. The service member shall immediately be placed on
20 the retired list.

21 (f) The governor may delegate the powers granted by this
22 section to the adjutant general.

23 Sec. 437.207. MILITARY UNIT AS CORPORATE BODY. (a) A
24 military unit in the Texas military forces is, from the time of its
25 creation, a body politic and corporate and may:

26 (1) take, purchase, own, hold, transfer, pledge, and
27 convey under its corporate name property of a total value, when

1 acquired, of not more than \$200,000;

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

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

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

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

10 (b) The officers of the unit or, if there are no officers in
11 the unit, the noncommissioned officers are its directors. The
12 senior officer is its president.

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

16 Sec. 437.208. ORGANIZATION PROHIBITED. (a) Except as
17 provided by Subsection (b), a body of persons other than the
18 regularly organized Texas military forces, the armed forces of the
19 United States, or the active militia of another state may not
20 associate as a military company or organization or parade in public
21 with firearms in a municipality of the state.

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

27 Sec. 437.209. FOREIGN TROOPS. A military force from

1 another state, territory, or district, except a force that is on
2 federal orders and acting as a part of the United States armed
3 forces, may not enter this state without the permission of the
4 governor. The governor may delegate the powers granted by this
5 section to the adjutant general.

6 Sec. 437.210. INTERFERENCE WITH TEXAS MILITARY FORCES. (a)

7 A person commits an offense if the person physically and
8 intentionally hinders, delays, or obstructs or intentionally
9 attempts to hinder, delay, or obstruct a portion of the Texas
10 military forces on active duty in performance of a military duty.

11 (b) An offense under Subsection (a) is a Class B
12 misdemeanor.

13 (c) The commanding officer of a portion of the Texas
14 military forces parading or performing a military duty in a street
15 or highway may require a person in the street or highway to yield
16 the right-of-way to the forces, except that the commanding officer
17 may not interfere with the carrying of the United States mail, a
18 legitimate function of the police, or the progress or operation of
19 an emergency medical services provider or fire department.

20 (d) During an occasion of duty, a commanding officer may
21 detain a person who:

22 (1) trespasses on a place of duty;

23 (2) interrupts or molests the orderly discharge of
24 duty by those under orders; or

25 (3) disturbs or prevents the passage of troops going
26 to or coming from duty.

27 (e) The commanding officer shall make a reasonable effort to

1 forward detained individuals to civil authorities as soon as
2 practicable.

3 Sec. 437.211. MANAGEMENT OF UNIT FUNDS. (a) The commanding
4 officer of each unit is the custodian of the unit fund. The
5 commanding officer shall:

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

8 (2) submit to the department an itemized statement of
9 money received and disbursed during the preceding reporting period:

10 (A) on September 1 of each year; and

11 (B) when there is a change of the commanding
12 officer of the unit.

13 (b) The unit fund consists of:

14 (1) donations made to the fund;

15 (2) rental income from state facilities under the
16 management of the unit that are leased for less than three days;

17 (3) revenue received from the sale of goods or
18 services to members of the unit and visitors; and

19 (4) depository interest and investment income earned
20 on amounts in the fund.

21 (c) A unit fund is a special fund held outside the state
22 treasury to be administered by the commanding officer of the unit
23 without further appropriation. A unit fund is not subject to
24 Chapter 2256. The department shall develop policies and procedures
25 concerning the administration of the funds. If any part of the fund
26 remains unexpended and unobligated at the end of the state fiscal
27 year, that amount is dedicated for the same purposes in the

1 subsequent year. Money in the fund may not be diverted for any other
2 purpose.

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

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

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

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

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

27 (e) A service member compensated under this section is

1 eligible for state workers' compensation coverage under Chapter
2 501, Labor Code.

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

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

11 (2) the participant must pay the full cost of health or
12 dental insurance coverage under the group benefits program and may
13 not receive a state contribution for premiums; and

14 (3) an application under this subsection for group
15 benefit health or dental insurance coverage must be submitted in
16 accordance with procedures established by the Employees Retirement
17 System of Texas.

18 (g) The adjutant general and the Employees Retirement
19 System of Texas shall coordinate and consult to implement the
20 benefits program provided by Subsection (f) and shall adopt a
21 memorandum of understanding to establish:

22 (1) the procedures that a member of the Texas State
23 Guard may use to elect to participate in the state group benefits
24 program; and

25 (2) an appropriate method to annually confirm
26 continuing eligibility to participate in the group benefits
27 program.

1 (h) A service member who is on active guard reserve status,
2 including a member serving on orders issued under Title 10 or 32,
3 United States Code, may not receive state active duty pay or state
4 training and other duty pay.

5 (i) A service member who is a federal technician in a paid
6 status may not receive state active duty pay or pay for state
7 training and other duty unless the member is on a military leave or
8 leave without pay status from the federal employment.

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

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

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

21 Sec. 437.214. MILITARY FUNERALS AND HONORS. (a) On the
22 request of a person listed in Subsection (b), the Texas military
23 forces may provide a military funeral and honor service for a
24 decedent who served in the Texas military forces.

25 (b) The following persons may request a military funeral and
26 honor service from the Texas military forces:

27 (1) the decedent's spouse;

1 (2) the decedent's adult children, if there is no
2 spouse;

3 (3) the decedent's parents, if there is no spouse or
4 adult child;

5 (4) the decedent's brothers or sisters, if there is no
6 spouse, adult child, or parent; or

7 (5) the executor or administrator of the decedent's
8 estate, if there is no spouse, adult child, parent, or brother or
9 sister.

10 (c) A service member is not eligible for a military funeral
11 and honor service under this section if the service member is
12 eligible for a military funeral and honor service under federal
13 law.

14 (d) The Texas military forces shall model the military
15 funeral and honor service after the service provided by the federal
16 government.

17 Sec. 437.215. GRAVE MARKERS FOR STATE MILITARY PERSONNEL.

18 (a) On the request of a person listed in Subsection (b), the
19 department shall provide a grave marker for a decedent who served in
20 the Texas military forces.

21 (b) The grave marker may be requested from the department by
22 a person described by Section 437.214(b).

23 (c) A service member is not eligible for a grave marker
24 under this section if the service member is eligible for a grave
25 marker under federal law.

26 (d) The department shall model the grave markers after the
27 grave markers provided by the federal government.

1 (e) The department shall publish information about its
2 grave marker program on the department's Internet website.

3 Sec. 437.216. SERVICE REFERRAL PROGRAM. (a) The department
4 shall develop a program to provide referrals to service members for
5 reintegration services.

6 (b) The program shall:

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

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

13 (3) promote family cohesion and sustainability;

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

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

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

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

25 (8) be developed and administered in a manner that
26 promotes collaboration of service providers and results in the
27 referral of service members, their children, and other family

1 members to the appropriate federal, state, and community services
2 for which they are eligible; and

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

7 (c) The department shall ensure that:

8 (1) each person who provides referrals to service
9 members under the referral program has received sufficient training
10 to ensure that service members receive accurate information; and

11 (2) service members are notified in a timely manner
12 about the service referral program.

13 (d) In developing the referral program, the department
14 shall consult with the National Guard Bureau, the United States
15 Veterans Health Administration, the Texas A&M Health Science Center
16 College of Medicine, and The University of Texas Health Science
17 Center at San Antonio.

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

26 (1) fees for obtaining copies of:

27 (A) a birth certificate;

- 1 (B) a recorded marriage license;
- 2 (C) a divorce decree;
- 3 (D) a child support order;
- 4 (E) guardianship documents; and
- 5 (F) property tax records;
- 6 (2) fees for issuing a marriage license or duplicate
- 7 marriage license; and
- 8 (3) fees for transferring title to real or personal
- 9 property.

10 (b) The governmental entity responsible for collecting a
11 fee described by Subsection (a) may rely on a letter issued by the
12 commander of the service member's unit for purposes of providing an
13 exemption under Subsection (a).

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

18 (b) To obtain the exemption, a service member must file in
19 the county tax assessor-collector's office an affidavit, sworn to
20 before a notary public or other person authorized to administer
21 oaths in this state, in the following form:

22 "I, _____, do hereby solemnly swear or affirm that I am a
23 service member in good standing of the Texas military forces of the
24 State of Texas.

25 Subscribed to and sworn to before me this _____ day of
26 _____, _____

27 SEAL

1 _____
2 _____
3 Notary Public in and for
4 _____ County, Texas"

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

8 Sec. 437.219. COMPENSATION. (a) Except as provided by
9 Section 437.220, a member of the Texas military forces who performs
10 training or other military duty under authority of the United
11 States Code may not receive pay or allowances from this state for
12 that duty.

13 (b) When orders are issued for state active duty or state
14 training or other duty, a National Guard service member of the Texas
15 military forces performing the duty or training is entitled, during
16 the period of the duty or training, to receive pay and allowances as
17 provided by law for the United States armed forces. Pay is a stipend
18 for duty or training and is salary or base pay. The pay may not be
19 reduced because of food, shelter, or transportation that this state
20 pays or furnishes in connection with the duty or training.

21 (c) The adjutant general shall set the daily pay rate and
22 allowance rate for state active duty and for state training and
23 other duty for Texas State Guard service members called to duty or
24 training under this chapter. The rate established by the adjutant
25 general may not exceed the meal and lodging rate set by the
26 comptroller by more than \$25 per day. The department shall publish
27 information about the established pay rates on the department's

1 Internet website.

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

5 Sec. 437.220. SUPPLEMENTAL DUTY PAY FOR ECONOMIC HARDSHIP.

6 (a) A person who is called to military duty as a member of the Texas
7 National Guard in the service of this state or the United States by
8 proper federal or state authority and who suffers an economic
9 hardship as a result of serving on military duty is eligible to
10 receive supplemental pay for serving in accordance with this
11 section. Payment under this subsection is subject to the
12 availability of funds.

13 (b) The comptroller shall establish the Texas National
14 Guard members' supplemental military duty pay account in the
15 general revenue fund. Money in the account may be appropriated only
16 for purposes of implementing this section. The comptroller,
17 governor, or adjutant general may accept gifts and grants for
18 deposit to the credit of the account. The legislature may transfer
19 money into the account or may appropriate money to implement this
20 section and the comptroller shall credit that money to the account.

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

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

27 (2) the difference between the amount of income that

1 the member has lost from civilian employment as a result of being
2 called to military duty and the amount of military pay and
3 allowances the member receives from state or federal sources while
4 on military duty.

5 (d) The adjutant general shall determine whether a member is
6 eligible to receive supplemental pay under this section and the
7 amount of supplemental pay a member may receive. In determining the
8 amount, the adjutant general shall consider the total amount that
9 is available for supplemental pay during a period and the probable
10 total need for supplemental pay during that period.

11 (e) The adjutant general may adopt rules to implement this
12 section, including rules that prescribe the procedure for
13 requesting supplemental pay and that prescribe evidence a member
14 may or must present to demonstrate hardship. The comptroller, in
15 consultation with the adjutant general, may adopt rules to govern
16 the manner and method of paying supplemental pay under this
17 section.

18 Sec. 437.221. OTHER DUTY AND COMMUNITY SERVICE MISSIONS.
19 The governor or the adjutant general, if designated by the
20 governor, may require other duty for officers and enlisted persons
21 in the Texas military forces. The other duty may include community
22 service missions.

23 Sec. 437.222. LIABILITY OF SERVICE MEMBER. (a) A service
24 member of the Texas military forces ordered into service of this
25 state by proper authority is not personally liable in the person's
26 private capacity for any act performed or for any contract or other
27 obligation entered into or undertaken in an official capacity in

1 good faith and without intent to defraud in connection with the
2 administration, management, or conduct of the department in
3 business, programs, or other related affairs, under the limited
4 waiver of governmental immunity provided by the Texas Tort Claims
5 Act (Chapter 101, Civil Practice and Remedies Code).

6 (b) If a suit is instituted against a service member of the
7 Texas military forces for an act of the service member in the
8 service member's official capacity in the discharge of duty or
9 against a person acting under the authority, order, or lawfully
10 issued warrant of the service member, the court shall require the
11 plaintiff to file security for the payment of court costs that may
12 be awarded to the defendant. The defendant in the case may make a
13 general denial and give the special matter in evidence. If the
14 plaintiff is nonsuited or the verdict or judgment is against the
15 plaintiff, the defendant is entitled to recover three times the
16 court costs.

17 (c) If a service member of the Texas military forces is sued
18 for injury to a person or property occurring in the performance of
19 or an attempt to perform a duty required by law, the court shall
20 remove venue of the case to a court in another county not subject to
21 disqualification if:

22 (1) the defendant applies for the removal; and

23 (2) the application is supported by affidavit of two
24 credible persons stating that they have good reason to believe the
25 defendant cannot have a fair and impartial trial before the court.

26 Sec. 437.223. EXEMPTION FROM ARREST. (a) A member of the
27 Texas military forces may not be arrested, except for treason,

1 felony, or breach of the peace, while the person is going to or
2 coming from a place that the person was required to be for military
3 duty.

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

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

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

16 Sec. 437.225. DISCHARGE. (a) A service member may be
17 discharged from the Texas military forces according to rules
18 adopted by the adjutant general or by federal law or regulations.

19 (b) On termination of the appointment of an officer or
20 enlistment of an enlisted service member in the Texas military
21 forces, the officer or enlisted service member shall be given a
22 certificate of discharge stating the character of the person's
23 service.

24 Sec. 437.226. ASSISTANCE FOR TUITION AND FEES. (a) In this
25 section, "institution of higher education" and "private or
26 independent institution of higher education" have the meanings
27 assigned by Section 61.003, Education Code.

1 (b) To be eligible for assistance for tuition and mandatory
2 fees under this section, a person must:

3 (1) be a service member in good standing, as certified
4 by the adjutant general, of the Texas military forces who is:

5 (A) an enlisted member;

6 (B) a warrant officer of a grade from Warrant
7 Officer One through Chief Warrant Officer Three; or

8 (C) a commissioned officer of a grade from Second
9 Lieutenant through Lieutenant Colonel; and

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

13 (c) The adjutant general shall grant assistance for tuition
14 and mandatory fees under this section to eligible service members,
15 in an amount not to exceed the amount provided in the General
16 Appropriations Act. The adjutant general may apportion the number
17 of assistance awards among the components of the Texas military
18 forces necessary to meet the recruitment and retention needs of
19 those components. The number of assistance awards made to members
20 of the Texas State Guard may not exceed 30 for any semester unless
21 the adjutant general finds a compelling need for additional awards
22 to members of the Texas State Guard.

23 (d) Assistance for tuition and mandatory fees may be awarded
24 under this section for tuition and mandatory fees charged for any
25 undergraduate or graduate course at an institution of higher
26 education or private or independent institution of higher
27 education, including a vocational or technical course.

1 (e) A service member may not receive assistance for tuition
2 under this section for more than 12 semester credit hours in any
3 semester.

4 (f) A service member may not receive assistance for tuition
5 and mandatory fees under this section for more than 5 academic years
6 or 10 semesters, whichever occurs first for the service member.

7 (g) Before each semester, the department must certify to the
8 appropriate public and private institutions of higher education a
9 list of the service members to whom the adjutant general has awarded
10 assistance for tuition and mandatory fees under this section for
11 that semester. The amount of assistance awarded by the adjutant
12 general under this section may not exceed the amount of money
13 available to fund the assistance awards.

14 (h) From money appropriated for purposes of this section,
15 the department shall authorize the comptroller to reimburse an
16 institution of higher education in an amount equal to the amount of
17 the exemption from tuition and mandatory fees the institution
18 grants to a person under Section 54.345, Education Code.

19 (i) From money appropriated for purposes of this section,
20 the department shall authorize the comptroller to make a grant to a
21 service member attending a private or independent institution of
22 higher education to whom the adjutant general has awarded
23 assistance for tuition and mandatory fees for the semester under
24 this section. The amount of a grant under this subsection is an
25 amount equal to the average amount of reimbursement the department
26 estimates will be paid per student for the same semester under
27 Subsection (h).

1 Sec. 437.227. COMPENSATION FOR DEATH OR INJURY. A member of
2 the Texas military forces on state active duty or on state training
3 or other duty who is killed or injured while engaged in authorized
4 duty or training is entitled to receive compensation and
5 protections under Title 5, Labor Code.

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

11 Sec. 437.229. ISSUANCE AND USE OF UNIFORM AND OTHER
12 MILITARY PROPERTY. (a) A service member to whom the department
13 issues a uniform or other military property shall give a receipt for
14 the uniform or property. The adjutant general shall prescribe the
15 manner in which the uniform and property shall be accounted for and
16 kept.

17 (b) The uniform or other property may be used only for
18 military purposes. An officer or enlisted service member of the
19 Texas military forces who is responsible for public property may
20 not lend the property for private use or permit it to be used for a
21 purpose for which it was not intended.

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

1 (b) The Texas State Guard shall wear uniforms that differ
2 significantly from the uniform of the National Guard, as required
3 by National Guard regulations.

4 Sec. 437.231. EXEMPTION FROM LEVY AND SALE. Arms,
5 equipment, clothing, and other military supplies issued by the
6 department to units or service members of the Texas military forces
7 for military purposes are exempt from levy and sale because of
8 execution for debt or other legal proceedings.

9 Sec. 437.232. SEIZURE. (a) On a finding by the adjutant
10 general that a person unlawfully possesses, and refuses or fails to
11 deliver up, arms, equipment, or other military property issued by
12 the department for use of the Texas military forces, the governor
13 may by warrant command the sheriff of the county in which the person
14 resides or is located to seize the arms, equipment, or other
15 military property and keep the property subject to the governor's
16 further order. The sheriff in executing the warrant may invoke the
17 power of the county.

18 (b) Each sheriff may collect military arms or property
19 issued by the department that is liable to loss or in the hands of
20 unauthorized persons and safely keep the arms and property subject
21 to order of the governor. The sheriff shall make a report of the
22 collection to the governor. The sheriff's official bond covers
23 faithful performance of duties under this subchapter.

24 SUBCHAPTER F. TEXAS NATIONAL GUARD

25 Sec. 437.251. COMPOSITION. The Texas National Guard may
26 not exceed half of one percent of the population of the state except
27 in case of war, insurrection, or invasion, the prevention of

1 invasion, the suppression of riot, or the aiding of civil
2 authorities to execute state law.

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

6 (1) a state agency or department;

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

9 (3) a special purpose district or authority.

10 Sec. 437.253. PROPERTY FORFEITURE. When the National Guard
11 Counterdrug Program assists a federal law enforcement agency in
12 enforcing drug laws, the National Guard Counterdrug Program is
13 considered to be a law enforcement agency of this state for the
14 purpose of participating in the sharing of property seized or
15 forfeited to the United States under federal law.

16 Sec. 437.254. EMPLOYEES IN NATIONAL GUARD; EMERGENCY LEAVE.

17 (a) A state employee called to state active duty as a member of the
18 Texas National Guard by the governor or other appropriate authority
19 in response to a natural or man-made disaster is entitled to receive
20 paid emergency leave without loss of military leave under Section
21 437.202 or annual leave.

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

27 (c) The duty or training under Subsection (b) does not

1 include duty or training carried out under Section 437.202.

2 SUBCHAPTER G. TEXAS STATE GUARD

3 Sec. 437.301. COMMANDER. The commander of the Texas State
4 Guard is responsible:

5 (1) for the welfare, strength, and management of the
6 Texas State Guard;

7 (2) for the organization, training, and
8 administration of all Texas State Guard components;

9 (3) to the adjutant general to ensure the Texas State
10 Guard missions remain relevant and responsive as a force provider
11 to this state; and

12 (4) to field and staff the volunteer components of the
13 Texas State Guard.

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

17 (b) To serve in the Texas State Guard, a person:

18 (1) must be a resident of this state for at least 180
19 days;

20 (2) must be a citizen of the United States or a person
21 who has been lawfully admitted to the United States for permanent
22 residence under the Immigration and Nationality Act (8 U.S.C.
23 Section 1101 et seq.);

24 (3) must be at least 18 years of age and not older than
25 70 years of age;

26 (4) must undergo a background and criminal history
27 check;

1 (5) may not be a registered sex offender; and

2 (6) must be acceptable to and approved by the governor
3 or adjutant general under the governor's direction.

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

6 (b) The governor may adopt rules governing enlistment,
7 organization, administration, uniforms, equipment, maintenance,
8 command, training, and discipline of the Texas State Guard. The
9 rules to the extent practicable and desirable must conform to law,
10 rules, and regulations governing the Texas National Guard.

11 (c) The governor may delegate the powers granted by this
12 section to the adjutant general.

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

16 (1) a state agency or department;

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

19 (3) a special purpose district or authority.

20 (b) A public school district may permit the Texas State
21 Guard to use a school building.

22 (c) The assistance solicited or received under this section
23 is governed by the policies and rules adopted by the adjutant
24 general.

25 Sec. 437.305. EMPLOYEES IN STATE GUARD; EMERGENCY LEAVE. A
26 state employee called to state active duty as a member of the Texas
27 State Guard by the governor or other appropriate authority in

1 response to a natural or man-made disaster is entitled to receive
2 paid emergency leave without loss of military leave under Section
3 437.202 or annual leave.

4 Sec. 437.306. USE OUTSIDE STATE; FRESH PURSUIT FROM OR INTO
5 STATE. (a) Except as provided by Subsections (b) and (c), the
6 Texas State Guard may not be required to serve outside the state.

7 (b) The governor, on request of the governor of another
8 state, may order all or part of the Texas State Guard to assist a
9 military or civil authority of that state in defending that state.
10 The governor may recall these forces.

11 (c) If authorized by the law of another state, an
12 organization, unit, or detachment of the Texas State Guard, on
13 order of the officer in immediate command, may continue in fresh
14 pursuit of an insurrectionist, a saboteur, an enemy, or enemy
15 forces into that state until the apprehension or capture of the
16 person or forces pursued or until military or police forces of that
17 state or the United States have had a reasonable opportunity to
18 apprehend, capture, or take up the pursuit of the person or forces.
19 The Texas State Guard without unnecessary delay shall surrender a
20 person apprehended or captured in another state to the military or
21 police forces of that state or the United States. This surrender is
22 not a waiver by this state of a right to extradite or prosecute the
23 person for a crime committed in this state.

24 (d) Military forces of another state may continue a fresh
25 pursuit into this state in the same manner permitted the Texas State
26 Guard under Subsection (c). The military forces of the other state
27 shall without unnecessary delay surrender a person captured or

1 arrested in this state to the military or police forces of this
2 state to be dealt with according to law. This subsection does not
3 prohibit an arrest in this state permitted by other law.

4 Sec. 437.307. FEDERAL SERVICE. This chapter does not
5 authorize the calling, ordering, or drafting of all or part of the
6 Texas State Guard into military service of the United States. A
7 person is not exempted by enlistment or commission in the Texas
8 State Guard from military service under federal law.

9 Sec. 437.308. RECORDS; ARMS; EQUIPMENT. (a) The
10 commander of the Texas State Guard shall maintain and preserve the
11 individual and unit records of the Texas State Guard and the Texas
12 State Guard Honorary Reserve.

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

18 Sec. 437.309. TEXAS STATE GUARD HONORARY RESERVE. (a) The
19 governor, or adjutant general under the governor's authority and
20 direction, may transfer to the Texas State Guard Honorary Reserve
21 an officer or enlisted service member of the Texas State Guard who:

- 22 (1) is physically disabled;
23 (2) is at least 60 years of age; or
24 (3) has served the federal or state military
25 satisfactorily for at least 20 years.

26 (b) The governor, or the adjutant general for a service
27 member that is not a general officer, may advance the service member

1 one grade or rank at the time of the transfer into the honorary
2 reserve.

3 Sec. 437.310. TEXAS STATE GUARD UNIFORM AND INSIGNIA FUND.

4 (a) A special revolving fund is established outside the state
5 treasury to be known as the Texas State Guard uniform and insignia
6 fund. The fund may be used only to purchase uniforms and insignia to
7 be used by members of the Texas State Guard. The fund shall be
8 administered in accordance with Section 437.211.

9 (b) The fund consists of:

10 (1) donations made to the fund;

11 (2) revenue received by the Texas State Guard from the
12 sale of uniforms and insignia to members of the guard; and

13 (3) depository interest and investment income earned
14 on money in the fund.

15 (c) If any part of the fund remains unexpended and
16 unobligated at the end of the state fiscal year, that amount is
17 dedicated for the same purposes in the subsequent year. Money in the
18 fund may not be diverted for any other purpose.

19 SECTION 1.02. Subchapter J, Chapter 431, Government Code,
20 is transferred to Chapter 437, Government Code, as added by this
21 Act, redesignated as Subchapter H, Chapter 437, Government Code,
22 and amended to read as follows:

23 SUBCHAPTER H [~~J~~]. AWARDS

24 Sec. 437.351 [~~431.131~~]. TEXAS LEGISLATIVE MEDAL OF HONOR.

25 (a) The Texas Legislative Medal of Honor shall be awarded to a
26 member of the state or federal military forces designated by
27 concurrent resolution of the legislature who voluntarily performs a

1 deed of personal bravery or self-sacrifice involving risk of life
2 that is so conspicuous as to clearly distinguish the service member
3 [~~person~~] for gallantry and intrepidity above the service member's
4 [~~person's~~] comrades. Awarding of the medal shall be considered on
5 the standard of extraordinary merit. The medal may be awarded only
6 on incontestable proof of performance of the deed. To be eligible
7 for the Texas Legislative Medal of Honor, a service member [~~person~~]
8 must:

9 (1) have been born in this state;

10 (2) reside in this state or have been a resident of
11 this state on the service member's [~~person's~~] death; or

12 (3) have been a resident of this state when the service
13 member [~~person~~] entered military service.

14 (b) A service member [~~person~~] is not ineligible for the
15 Texas Legislative Medal of Honor because the service member
16 [~~person~~] has received any other medal or award for military
17 service, including a medal or award made by the United States.

18 (c) To receive the Texas Legislative Medal of Honor, a
19 service member [~~person~~] must be nominated during a regular session
20 of the legislature by majority vote of all the members of a
21 nominating committee consisting of:

22 (1) the adjutant general or the adjutant general's
23 designated representative;

24 (2) the lieutenant governor or the lieutenant
25 governor's designated representative;

26 (3) the speaker of the house of representatives or the
27 speaker's designated representative; and

1 (4) the chair of the standing committee of each house
2 of the legislature with primary jurisdiction over military and
3 veterans affairs.

4 (d) The legislature by concurrent resolution may direct the
5 governor to award the Texas Legislative Medal of Honor to a service
6 member [~~person~~] nominated by the nominating committee. The
7 committee chairs serving on the nominating committee shall jointly
8 prepare a concurrent resolution directing the governor to award the
9 medal to a service member [~~person~~] nominated. The legislature may
10 direct the medal to be awarded only during a regular session and may
11 not direct the medal to be awarded to more than one service member
12 [~~person~~] during a regular session.

13 Sec. 437.352 [~~431.132~~]. LONE STAR MEDAL OF VALOR. The Lone
14 Star Medal of Valor shall be awarded to a member of the military
15 forces of this state, another state, or the United States who
16 performs specific acts of bravery or outstanding courage, or who
17 performs within an exceptionally short period a closely related
18 series of heroic acts, if the acts involve personal hazard or danger
19 and the voluntary risk of life and result in an accomplishment so
20 exceptional and outstanding as to clearly set the person apart from
21 the person's comrades or from other persons in similar
22 circumstances. Awarding of the medal requires a lesser degree of
23 gallantry than awarding of the Texas Legislative Medal of Honor,
24 but requires that the acts be performed with marked distinction.

25 ~~[Sec. 431.133. LONE STAR DISTINGUISHED SERVICE MEDAL. The~~
26 ~~Lone Star Distinguished Service Medal shall be awarded to a member~~
27 ~~of the military forces of this state, another state, or the United~~

1 ~~States for exceptionally outstanding achievement or service to the~~
2 ~~state in performance of a duty of great responsibility while~~
3 ~~serving with the state military forces.~~

4 ~~[Sec. 431.134. OTHER AWARDS. (a) The adjutant general may~~
5 ~~adopt rules and regulations relating to the:~~

6 ~~[(1) Texas Faithful Service Medal, which shall be~~
7 ~~awarded to a member of the state military forces who has completed~~
8 ~~five years of honorable service during which the person has shown~~
9 ~~fidelity to duty, efficient service, and great loyalty to the~~
10 ~~state;~~

11 ~~[(2) Federal Service Medal, which shall be awarded to~~
12 ~~a person who was inducted into federal service from the state~~
13 ~~military forces between June 15, 1940, and January 1, 1946, or after~~
14 ~~June 1, 1950, if the service was for more than 90 days;~~

15 ~~[(3) Texas Medal of Merit, which may be presented to a~~
16 ~~member of the military forces of this state, another state, or the~~
17 ~~United States who performs outstanding service or attains~~
18 ~~extraordinary achievement in behalf of the state or United States;~~

19 ~~[(4) Texas Outstanding Service Medal, which may be~~
20 ~~presented to a member of the military forces of this state, another~~
21 ~~state, or the United States who has performed service in a superior~~
22 ~~and clearly outstanding manner;~~

23 ~~[(5) Texas State Guard Service Medal, which shall be~~
24 ~~awarded to a person who completes three consecutive years of~~
25 ~~honorable service in the Texas State Guard during which the person~~
26 ~~has shown fidelity to duty, efficient service, and great loyalty to~~
27 ~~the state;~~

1 ~~[(6) Texas Desert Shield/Desert Storm Campaign Medal,~~
2 ~~which shall be awarded to a person who was inducted into federal~~
3 ~~service from the Texas National Guard after August 1, 1990, in~~
4 ~~support of Operation Desert Shield or Operation Desert Storm,~~
5 ~~without regard to the place that the person was deployed while~~
6 ~~serving on active federal military duty;~~

7 ~~[(7) Texas Humanitarian Service Medal, which shall be~~
8 ~~awarded to a person who:~~

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

11 ~~[(B) is a member of the state military forces,~~
12 ~~and~~

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

18 ~~[(8) Texas Cavalry Medal, which shall be awarded to a~~
19 ~~person who:~~

20 ~~[(A) served on or after September 11, 2001, in~~
21 ~~the 124th Cavalry, Texas Army National Guard; and~~

22 ~~[(B) served in a hostile fire zone as designated~~
23 ~~by the United States secretary of defense;~~

24 ~~[(9) Texas Combat Service Ribbon, which shall be~~
25 ~~awarded to a member of the Texas National Guard who served, after~~
26 ~~September 11, 2001, in a hostile fire zone as designated by the~~
27 ~~United States secretary of defense;~~

1 ~~[(10) Texas Purple Heart Medal, which shall be awarded~~
2 ~~to a person who, after September 11, 2001:~~

3 ~~[(A) was inducted into federal service from the~~
4 ~~Texas National Guard; and~~

5 ~~[(B) meets the criteria for an award of the~~
6 ~~federal Purple Heart Medal;~~

7 ~~[(11) Texas Superior Service Medal, which shall be~~
8 ~~awarded to:~~

9 ~~[(A) a member of the state military forces who~~
10 ~~has:~~

11 ~~[(i) completed 30 or more years of~~
12 ~~honorable state service or a combination of state and federal~~
13 ~~service; and~~

14 ~~[(ii) continually demonstrated superior~~
15 ~~performance and service while assigned to key leadership positions~~
16 ~~demanding responsibility; or~~

17 ~~[(B) a civilian who has contributed significant~~
18 ~~service to the state military forces;~~

19 ~~[(12) Texas Homeland Defense Service Medal, which~~
20 ~~shall be awarded to a member of the state military forces who~~
21 ~~served:~~

22 ~~[(A) on or after September 11, 2001;~~

23 ~~[(B) on state active duty or active duty under~~
24 ~~state authority in accordance with Title 32 of the United States~~
25 ~~Code; and~~

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

1 ~~[(13) Texas Iraqi Campaign Medal, which shall be~~
2 ~~awarded to a person who was inducted into federal service from the~~
3 ~~Texas National Guard, without regard to the place that the person~~
4 ~~was deployed while serving on active federal military duty, after:~~

5 ~~[(A) March 19, 2003, in support of Operation~~
6 ~~Iraqi Freedom; or~~

7 ~~[(B) August 31, 2010, in support of Operation New~~
8 ~~Dawn; and~~

9 ~~[(14) Texas Afghanistan Campaign Medal, which shall be~~
10 ~~awarded to a person who was inducted into federal service from the~~
11 ~~Texas National Guard after October 6, 2001, in support of Operation~~
12 ~~Enduring Freedom, without regard to the place that the person was~~
13 ~~deployed while serving on active federal military duty.~~

14 ~~[(b) A member of the state military forces or a civilian~~
15 ~~described by Subsection (a)(11) may be awarded the Texas Superior~~
16 ~~Service Medal only one time.]~~

17 Sec. 437.353 ~~[431.135]~~. RECOMMENDATIONS. (a) A
18 recommendation for award of the Texas Legislative Medal of Honor
19 or ~~[7]~~ Lone Star Medal of Valor ~~[7, or Lone Star Distinguished Service~~
20 ~~Medal]~~ shall be forwarded through military channels to the adjutant
21 general. An individual having personal knowledge of an act or
22 achievement or exceptional service believed to warrant the award of
23 one of these medals may submit a letter of recommendation to the
24 adjutant general.

25 (b) A letter of recommendation for award of the Texas
26 Legislative Medal of Honor or Lone Star Medal of Valor must give an
27 account of the occurrence and statements of eyewitnesses, extracts

1 from official records, sketches, maps, diagrams, or photographs to
2 support and amplify the stated facts.

3 ~~(c) [A letter of recommendation for award of the Lone Star~~
4 ~~Distinguished Service Medal must give an account of the exceptional~~
5 ~~service or achievement, facts, and extracts from official documents~~
6 ~~and photographs to support and amplify the facts.~~

7 ~~[(d)]~~ If the adjutant general determines that a case meets
8 the criteria established by Section 437.352 ~~[this subchapter]~~ for
9 award of the Lone Star Medal of Valor ~~[the awarding of one of these~~
10 ~~medals]~~, the adjutant general shall by endorsement recommend to the
11 governor the awarding of the ~~[appropriate]~~ medal.

12 Sec. 437.354 ~~[431.136]~~. AWARDING. The governor awards the
13 Texas Legislative Medal of Honor as directed by the legislature
14 under Section 437.351 ~~[431.131]~~. The governor awards the Lone Star
15 Medal of Valor ~~[, Lone Star Distinguished Service Medal, or any~~
16 ~~other award authorized by this subchapter]~~ on recommendation of the
17 adjutant general.

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

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

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

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

27 (2) the Texas Superior Service Medal, which shall be

1 awarded to:

2 (A) a service member of the Texas military forces

3 who has:

4 (i) completed 30 or more years of honorable
5 state service or a combination of state and federal service; and

6 (ii) continually demonstrated superior
7 performance and service while assigned to key leadership positions
8 demanding responsibility; or

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

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

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

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

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

26 (5) the Texas Humanitarian Service Medal, which shall
27 be awarded to a service member who:

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

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

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

9 (6) the Texas Homeland Defense Service Medal, which
10 shall be awarded to a service member of the Texas military forces
11 who served:

12 (A) on or after September 11, 2001;

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

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

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

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

26 (9) the Texas Faithful Service Medal, which shall be
27 awarded to a member of the Texas military forces who has completed

1 five years of honorable service during which the service member has
2 shown fidelity to duty, efficient service, and great loyalty to
3 this state;

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

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

13 (12) the Texas Desert Shield/Desert Storm Campaign
14 Medal, which shall be awarded to a service member who was inducted
15 into federal service from the Texas National Guard after August 1,
16 1990, in support of Operation Desert Shield or Operation Desert
17 Storm, without regard to the place that the service member was
18 deployed while serving on active federal military duty;

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

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

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

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

7 (b) A person may be awarded only one Texas Superior Service
8 Medal.

9 Sec. 437.356 [~~431.137~~]. POSTHUMOUS AWARDS. An award may be
10 made to a person who has died in the same manner as an award to a
11 living person, except the orders and citation must indicate that
12 the award is made posthumously.

13 Sec. 437.357 [~~431.138~~]. DESIGN; RIBBONS. (a) The
14 department [~~adjutant general~~] shall design and have manufactured
15 the medals, awards, decorations, and ribbons awarded under this
16 subchapter and others that the adjutant general has approved for
17 award.

18 (b) The department may purchase or replace medals, awards,
19 decorations, and ribbons authorized under this subchapter for the
20 recipient, the decedent's family, and nonprofit and governmental
21 entities honoring the recipient or decedent.

22 (c) The adjutant general shall adopt rules [~~and~~
23 ~~regulations~~] prescribing when a ribbon may be appropriately worn
24 instead of the medal it symbolizes.

25 SECTION 1.03. Chapter 437, Government Code, as added by
26 this Act, is amended by adding Subchapter I to read as follows:

1 SUBCHAPTER I. EMERGENCY MILITIA; SPECIAL CIRCUMSTANCES

2 Sec. 437.401. DEFINITION. In this subchapter, "emergency
3 militia" means individuals called by the county emergency board to
4 serve as a part of the Texas military and homeland security forces,
5 as provided by this subchapter.

6 Sec. 437.402. CALLING OF FORCES BY GOVERNOR. (a) The
7 governor may call all or part of the Texas military forces to repel
8 or suppress an invasion of or insurrection in or threatened
9 invasion of or insurrection in this state or if the governor
10 considers it necessary to enforce state law. If the number of Texas
11 military forces is insufficient, the governor shall call the part
12 of the emergency militia that the governor considers necessary.

13 (b) The governor may call all or part of the Texas military
14 forces to assist civil authorities in guarding prisoners, conveying
15 prisoners within this state, or executing law as the public
16 interest or safety requires.

17 (c) The governor may order a commander of a unit of the Texas
18 military forces to appear at a time and place directed to suppress
19 or prevent tumult, riot, or the actions of a group of persons acting
20 together by force with intent to commit a breach of the peace or
21 violence to a person or property or to otherwise violate state law.

22 Sec. 437.403. DUTY OF COMMANDING OFFICER. (a) On receipt
23 of a call under this subchapter, a commanding officer immediately
24 shall order the called forces under the officer's command to parade
25 at the time and place appointed and shall notify the governor and
26 adjutant general of the action.

27 (b) After the forces have appeared at the appointed place,

1 the commanding officer shall obey and execute the general
2 instructions of the civil authorities charged by law with the
3 suppression of riot or tumult or the preservation of public peace.
4 The instructions must be in writing, except that if written
5 instructions are impracticable the instructions must be given
6 verbally in the presence of two or more credible witnesses. The
7 commanding officer is solely responsible for determining the kind
8 and extent of force to be used and the method of implementing the
9 instructions.

10 Sec. 437.404. MILITARY DUTY. (a) A person serving in the
11 emergency militia is not subject to active military duty, except
12 that the governor may call into service the portion of the emergency
13 militia needed for the period required in case of war,
14 insurrection, or invasion, prevention of invasion, suppression of
15 riot, tumult, or breach of peace, or to aid civil officers to
16 execute law or serve process.

17 (b) The governor may assign members of the emergency militia
18 who are called into service to existing organizations of the Texas
19 military forces or organize them as circumstances require.

20 Sec. 437.405. COUNTY EMERGENCY BOARD. The county emergency
21 board of each county consists of the county judge, sheriff, and tax
22 assessor-collector. If one of those officers is unable to act, the
23 governor shall designate another public official to serve on the
24 board.

25 Sec. 437.406. DRAFT. (a) The governor, by order to the
26 county emergency board, shall apportion the number of members of
27 the emergency militia called into service among the counties by

1 draft according to each county's population or by other means the
2 governor directs. The county emergency board shall establish fair
3 and equitable procedures for selection of persons to fill the draft
4 according to rules adopted by the governor. On completion of the
5 selection, the board shall deliver a list of the persons selected to
6 the governor and adjutant general and notify each person selected
7 of the time and place to appear and report.

8 (b) A member of the emergency militia while in active
9 service is a member of the Texas military forces and is subject to
10 the punitive provisions of Chapter 432. A member who does not
11 appear at the time and place designated by the county emergency
12 board shall be punished as a court-martial directs.

13 Sec. 437.407. PERSONS SUBJECT TO DRAFT. (a) A person is
14 subject to draft if the person is:

15 (1) able-bodied;

16 (2) a citizen or a person of foreign birth who has
17 declared an intent to become a citizen;

18 (3) a resident of the state;

19 (4) at least 17 and not more than 42 years of age; and

20 (5) not exempt under Subsection (b) or (c) or United
21 States law.

22 (b) A person is exempt from the draft if the person is:

23 (1) the lieutenant governor;

24 (2) a member or officer of the legislature;

25 (3) a judge or clerk of a court of record;

26 (4) a head of a state agency;

27 (5) a sheriff, district attorney, county attorney,

1 county tax assessor-collector, or county commissioner;

2 (6) a mayor, council member, alderman, or assessor and
3 collector of a municipality;

4 (7) an officer or employee of the Texas Department of
5 Criminal Justice, a state hospital or special school, a public or
6 private hospital, or a nursing home;

7 (8) a member of a regularly organized and paid fire or
8 police department in a municipality, except that a person is not
9 relieved of military duty by joining such a department;

10 (9) a minister of the gospel exclusively engaged in
11 that calling; or

12 (10) a person who conscientiously scruples against
13 bearing arms.

14 (c) A person is exempt from the draft if the person is a
15 person with a medical or mental disability in accordance with
16 United States Department of Defense enlistment standards.

17 (d) A minor may not be drafted without the written consent
18 of the minor's parents or guardian.

19 (e) A service member expelled or dishonorably discharged
20 from state or United States military service is not eligible for
21 enlistment or reenlistment in the Texas military forces unless the
22 discharge has been upgraded by the appropriate authority.

23 Sec. 437.408. CRIMINAL PENALTY. (a) A member of a county
24 emergency board commits an offense if the member neglects or
25 refuses to perform a duty required by this subchapter.

26 (b) An offense under this section is a Class C misdemeanor.

27 SECTION 1.04. Subchapter K, Chapter 431, Government Code,

1 is transferred to Chapter 437, Government Code, as added by this
2 Act, redesignated as Subchapter J, Chapter 437, Government Code,
3 and amended to read as follows:

4 SUBCHAPTER J [~~K~~]. ADMINISTRATIVE REVIEW AND JUDICIAL ENFORCEMENT

5 Sec. 437.451 [~~431.151~~]. DEFINITIONS. In this subchapter:

6 (1) "Commission" means the Texas Workforce Commission
7 civil rights division.

8 (2) "Complainant" means an individual who brings an
9 action or proceeding under this subchapter.

10 (3) "Respondent" means the person charged in a
11 complaint filed under this subchapter.

12 Sec. 437.452 [~~431.152~~]. FILING OF COMPLAINT; FORM AND
13 CONTENT; SERVICE. (a) A person claiming to be aggrieved by an
14 unlawful employment practice under Section 437.204 [~~431.006~~] or the
15 person's agent may file a complaint with the commission.

16 (b) The complaint must be in writing and made under oath.

17 (c) The complaint must state:

18 (1) that an unlawful employment practice under Section
19 437.204 [~~431.006~~] has been committed;

20 (2) the facts on which the complaint is based,
21 including the date, place, and circumstances of the alleged
22 unlawful employment practice; and

23 (3) facts sufficient to enable the commission to
24 identify the respondent.

25 (d) The commission shall serve the respondent with a copy of
26 the perfected complaint not later than the 10th day after the date
27 the complaint is filed.

1 (e) A complaint may be amended to cure technical defects or
2 omissions, including a failure to verify the complaint or to
3 clarify and amplify an allegation made in the complaint.

4 (f) An amendment to a complaint alleging additional facts
5 that constitute an unlawful employment practice under Section
6 437.204 [~~431.006~~] relating to or arising from the subject matter of
7 the original complaint relates back to the date the complaint was
8 first received by the commission.

9 Sec. 437.453 [~~431.153~~]. ALTERNATIVE DISPUTE RESOLUTION.
10 The use of alternative means of dispute resolution, including
11 settlement negotiations, conciliation, facilitation, mediation,
12 fact-finding, minitrials, and arbitration, is encouraged to
13 resolve disputes arising under Section 437.204 [~~431.006~~]. The
14 settlement of a disputed claim under this subchapter that results
15 from the use of traditional or alternative means of dispute
16 resolution is binding on the parties to the claim.

17 Sec. 437.454 [~~431.154~~]. INVESTIGATION BY COMMISSION. The
18 commission shall investigate a complaint arising under Section
19 437.204 [~~431.006~~] and determine if there is reasonable cause to
20 believe that the respondent engaged in an unlawful employment
21 practice as alleged in the complaint.

22 Sec. 437.455 [~~431.155~~]. LACK OF REASONABLE CAUSE;
23 DISMISSAL OF COMPLAINT. (a) If, after investigation, the
24 commission determines that reasonable cause does not exist to
25 believe that the respondent engaged in an unlawful employment
26 practice under Section 437.204 [~~431.006~~] as alleged in a complaint,
27 the commission shall issue a written determination incorporating

1 the finding that the evidence does not support the complaint and
2 dismissing the complaint.

3 (b) The commission shall serve a copy of the determination
4 on the complainant, the respondent, and other agencies as required
5 by law.

6 Sec. 437.456 [~~431.156~~]. DETERMINATION OF REASONABLE CAUSE;
7 REVIEW BY PANEL. If, after investigation, the commission
8 determines that there is reasonable cause to believe that the
9 respondent engaged in an unlawful employment practice under Section
10 437.204 [~~431.006~~] as alleged in a complaint, the commission shall:

11 (1) issue a written determination incorporating the
12 finding that the evidence supports the complaint; and

13 (2) serve a copy of the determination on the
14 complainant, the respondent, and other agencies as required by law.

15 Sec. 437.457 [~~431.157~~]. RESOLUTION BY INFORMAL METHODS.

16 (a) If a determination of reasonable cause is made, the commission
17 shall endeavor to eliminate the alleged unlawful employment
18 practice arising under Section 437.204 [~~431.006~~] by informal
19 methods of conference, conciliation, and persuasion.

20 (b) Without the written consent of the complainant and
21 respondent, the commission, its executive director, or its other
22 officers or employees may not disclose to the public information
23 about the efforts in a particular case to resolve an alleged
24 unlawful employment practice by conference, conciliation, or
25 persuasion, regardless of whether there is a determination of
26 reasonable cause.

27 Sec. 437.458 [~~431.158~~]. NOTICE OF DISMISSAL OR UNRESOLVED

1 COMPLAINT. If the commission dismisses a complaint or does not
2 resolve the complaint, the commission shall inform the complainant
3 of the dismissal or failure to resolve the complaint in writing by
4 certified mail.

5 Sec. 437.459 [~~431.159~~]. TEMPORARY INJUNCTIVE RELIEF. (a)
6 If the commission concludes from a preliminary investigation of an
7 unlawful employment practice arising under Section 437.204
8 [~~431.006~~] alleged in a complaint that prompt judicial action is
9 necessary, the commission shall file a petition seeking appropriate
10 temporary relief against the respondent pending final
11 determination of a proceeding under this subchapter.

12 (b) The petition shall be filed in a district court in a
13 county in which:

14 (1) the alleged unlawful employment practice that is
15 the subject of the complaint occurred; or

16 (2) the respondent resides.

17 (c) A court may not issue temporary injunctive relief unless
18 the commission shows:

19 (1) a substantial likelihood of success on the merits;
20 and

21 (2) irreparable harm to the complainant in the absence
22 of the preliminary relief pending final determination on the
23 merits.

24 Sec. 437.460 [~~431.160~~]. CIVIL ACTION BY COMMISSION. (a)
25 The commission may bring a civil action against a respondent if:

26 (1) the commission determines that there is reasonable
27 cause to believe that the respondent engaged in an unlawful

1 employment practice under Section 437.204 [~~431.006~~]; and

2 (2) the commission's efforts to resolve the
3 discriminatory practice to the satisfaction of the complainant and
4 respondent through informal methods have been unsuccessful.

5 (b) The complainant may intervene in a civil action brought
6 by the commission.

7 Sec. 437.461 [~~431.161~~]. NOTICE OF COMPLAINANT'S RIGHT TO
8 FILE CIVIL ACTION. (a) A complainant who receives notice under
9 Section 437.458 [~~431.158~~] that the complaint is dismissed or not
10 resolved is entitled to request from the commission a written
11 notice of the complainant's right to file a civil action.

12 (b) The complainant must request the notice in writing.

13 (c) The executive director of the commission may issue the
14 notice.

15 (d) Failure of the executive director of the commission to
16 issue the notice of a complainant's right to file a civil action
17 does not affect the complainant's right under this subchapter to
18 bring a civil action against the respondent.

19 Sec. 437.462 [~~431.162~~]. CIVIL ACTION BY COMPLAINANT.
20 Within 60 days after the date a notice of the right to file a civil
21 action is received, the complainant may bring a civil action
22 against the respondent.

23 Sec. 437.463 [~~431.163~~]. COMMISSION'S INTERVENTION IN CIVIL
24 ACTION BY COMPLAINANT. After receipt of a timely application, a
25 court may permit the commission to intervene in a civil action filed
26 under Section 437.462 [~~431.162~~] if:

27 (1) the commission certifies that the case is of

1 general public importance; and

2 (2) before commencement of the action, the commission
3 issued a determination of reasonable cause to believe that Section
4 437.204 [~~431.006~~] was violated.

5 Sec. 437.464 [~~431.164~~]. ASSIGNMENT TO EARLY HEARING. The
6 court shall set an action brought under this subchapter for hearing
7 at the earliest practicable date to expedite the action.

8 Sec. 437.465 [~~431.165~~]. INJUNCTION; EQUITABLE RELIEF. (a)
9 On finding that a respondent engaged in an unlawful employment
10 practice under Section 437.204 [~~431.006~~] as alleged in a complaint,
11 a court may:

12 (1) prohibit by injunction the respondent from
13 engaging in an unlawful employment practice under Section 437.204
14 [~~431.006~~]; and

15 (2) order additional equitable relief as may be
16 appropriate.

17 (b) Additional equitable relief may include:

18 (1) hiring or reinstating with or without back pay;

19 (2) upgrading an employee with or without pay; and

20 (3) paying court costs.

21 (c) Liability under a back pay award may not accrue for a
22 date more than two years before the date a complaint is filed with
23 the commission. Interim earnings, workers' compensation benefits,
24 and unemployment compensation benefits received operate to reduce
25 the back pay otherwise allowable.

26 Sec. 437.466 [~~431.166~~]. COMPENSATORY AND PUNITIVE DAMAGES.

27 (a) On finding that a respondent engaged in an intentional unlawful

1 employment practice under Section 437.204 [~~431.006~~] as alleged in a
2 complaint, a court may, as provided by this section, award:

- 3 (1) compensatory damages; and
- 4 (2) punitive damages.

5 (b) A complainant may recover punitive damages against a
6 respondent, other than a respondent that is a governmental entity,
7 if the complainant demonstrates that the respondent engaged in an
8 unlawful employment practice under Section 437.204 [~~431.006~~] with
9 malice or with reckless indifference to the state-protected rights
10 of an aggrieved individual.

11 (c) Compensatory damages awarded under this section may not
12 include:

- 13 (1) back pay;
- 14 (2) interest on back pay; or
- 15 (3) other relief authorized under Section 437.465(b)
16 [~~431.165(b)~~].

17 (d) The sum of the amount of compensatory damages awarded
18 under this section for future pecuniary losses, emotional pain,
19 suffering, inconvenience, mental anguish, loss of enjoyment of
20 life, and other nonpecuniary losses and the amount of punitive
21 damages awarded under this section may not exceed, for each
22 complainant:

- 23 (1) \$50,000 in the case of a respondent that has fewer
24 than 101 employees;
- 25 (2) \$100,000 in the case of a respondent that has more
26 than 100 and fewer than 201 employees;
- 27 (3) \$200,000 in the case of a respondent that has more

1 than 200 and fewer than 501 employees; and

2 (4) \$300,000 in the case of a respondent that has more
3 than 500 employees.

4 (e) For the purposes of Subsection (d), in determining the
5 number of employees of a respondent, the requisite number of
6 employees must be employed by the respondent for each of 20 or more
7 calendar weeks in the current or preceding calendar year.

8 Sec. 437.467 [~~431.167~~]. ATTORNEY'S FEES; COSTS. (a) In a
9 proceeding under this subchapter, a court may allow the prevailing
10 party, other than the commission, a reasonable attorney's fee as
11 part of the costs.

12 (b) The state, a state agency, or a political subdivision is
13 liable for costs, including attorney's fees, to the same extent as a
14 private person.

15 (c) In awarding costs and attorney's fees in an action or a
16 proceeding under this subchapter, the court, in its discretion, may
17 include reasonable expert fees.

18 Sec. 437.468 [~~431.168~~]. COMPELLED COMPLIANCE. If an
19 employer fails to comply with a court order issued under this
20 subchapter, a party to the action or the commission, on the written
21 request of a person aggrieved by the failure, may commence
22 proceedings to compel compliance with the order.

23 Sec. 437.469 [~~431.169~~]. TRIAL DE NOVO. (a) A judicial
24 proceeding under this subchapter is by trial de novo.

25 (b) A commission finding, recommendation, determination, or
26 other action is not binding on a court.

1 ARTICLE 2. TEXAS MILITARY DEPARTMENT CONFORMING CHANGES

2 SECTION 2.01. Section 7.111(a), Education Code, is amended
3 to read as follows:

4 (a) The board shall provide for the administration of high
5 school equivalency examinations, including administration by the
6 Texas Military Department [~~adjutant general's department~~] for
7 students described by Subdivision (2)(C). A person who does not
8 have a high school diploma may take the examination in accordance
9 with rules adopted by the board if the person is:

10 (1) over 17 years of age;

11 (2) 16 years of age or older and:

12 (A) is enrolled in a Job Corps training program
13 under the Workforce Investment Act of 1998 (29 U.S.C. Section 2801
14 et seq.), and its subsequent amendments;

15 (B) a public agency providing supervision of the
16 person or having custody of the person under a court order
17 recommends that the person take the examination; or

18 (C) is enrolled in the Texas Military
19 Department's [~~adjutant general's department's~~] Seaborne Challenge
20 Corps; or

21 (3) required to take the examination under a justice
22 or municipal court order issued under Article 45.054(a)(1)(C), Code
23 of Criminal Procedure.

24 SECTION 2.02. Section 411.121(b), Government Code, is
25 amended to read as follows:

26 (b) The adjutant general is entitled to obtain from the
27 department criminal history record information maintained by the

1 department that relates to a person who is:

2 (1) a member of the state military forces;

3 (2) an employee of the Texas Military Department
4 [~~adjutant general's department~~];

5 (3) an applicant for enlistment in the state military
6 forces; or

7 (4) an applicant for employment with the Texas
8 Military Department [~~adjutant general's department~~].

9 SECTION 2.03. Section 421.021(a), Government Code, is
10 amended to read as follows:

11 (a) The Homeland Security Council is composed of the
12 governor or the governor's designee, the speaker of the house of
13 representatives or the speaker's designee, the lieutenant governor
14 or the lieutenant governor's designee, and one representative of
15 each of the following entities, appointed by the single statewide
16 elected or appointed governing officer, administrative head, or
17 chair, as appropriate, of the entity:

18 (1) Department of Agriculture;

19 (2) office of the attorney general;

20 (3) General Land Office;

21 (4) Public Utility Commission of Texas;

22 (5) Department of State Health Services;

23 (6) Department of Information Resources;

24 (7) Department of Public Safety of the State of Texas;

25 (8) Texas Division of Emergency Management;

26 (9) Texas Military Department [~~adjutant general's~~
27 ~~department~~];

- 1 (10) Texas Commission on Environmental Quality;
- 2 (11) Railroad Commission of Texas;
- 3 (12) Texas [~~Strategic~~] Military Preparedness
- 4 [~~Planning~~] Commission;
- 5 (13) Texas Department of Transportation;
- 6 (14) Commission on State Emergency Communications;
- 7 (15) Office of State-Federal Relations;
- 8 (16) secretary of state;
- 9 (17) Senate Committee on Transportation and Homeland
- 10 Security;
- 11 (18) House Committee on Defense and Veterans' Affairs;
- 12 (19) Texas Animal Health Commission;
- 13 (20) Texas Association of Regional Councils;
- 14 (21) Texas Commission on Law Enforcement Officer
- 15 Standards and Education;
- 16 (22) state fire marshal's office;
- 17 (23) Texas Education Agency;
- 18 (24) Texas Commission on Fire Protection;
- 19 (25) Parks and Wildlife Department;
- 20 (26) Texas Forest Service; and
- 21 (27) Texas Water Development Board.

22 SECTION 2.04. Section 432.072(a), Government Code, is
23 amended to read as follows:

24 (a) A person not subject to this chapter commits an offense
25 if the person:

- 26 (1) has been duly subpoenaed to appear as a witness or
- 27 to produce books and records before a military court or before a

1 military or civil officer or peace officer designated to take a
2 deposition to be read in evidence before a court;

3 (2) has been duly paid or tendered by the Texas
4 Military Department [~~adjutant general's department~~] the fees and
5 mileage of a witness at the rates allowed to witnesses under Section
6 432.192; and

7 (3) wilfully neglects or refuses to appear, qualify as
8 a witness, testify, or produce evidence that the person may have
9 been legally subpoenaed to produce.

10 SECTION 2.05. Section 432.109(a), Government Code, is
11 amended to read as follows:

12 (a) The Texas Court of Military Appeals, located for
13 administrative purposes only in the Texas Military Department
14 [~~adjutant general's department~~], consists of five judges appointed
15 by the adjutant general on the advice and recommendation of the
16 state judge advocate general for staggered six-year terms. A judge
17 appointed to fill a vacancy occurring before the expiration of the
18 term for which the judge's predecessor was appointed shall be
19 appointed only for the unexpired term of his predecessor. The
20 adjutant general, on the advice and recommendation of the state
21 judge advocate general, shall appoint the chief judge of the court.
22 A person is eligible for appointment to the court if the person:

23 (1) is a member of the State Bar of Texas;

24 (2) is a commissioned officer of the state military
25 forces, active or retired, or a retired commissioned officer in the
26 reserves of the armed forces of the United States; and

27 (3) has been engaged in the active practice of law for

1 at least five years and has at least five years' experience as a
2 staff judge advocate, judge advocate, or legal officer with the
3 state military forces, except that the requirements of this
4 subdivision are satisfied by equivalent experience or practice in
5 the armed forces of the United States.

6 SECTION 2.06. Section 432.192(b), Government Code, is
7 amended to read as follows:

8 (b) A person not in the employ of this state and not
9 belonging to its active military forces, who has been duly summoned
10 to appear as a witness before a military court, is entitled to
11 receive \$50 a day for each day actually in attendance on the court,
12 and 12 cents a mile for going from his place of residence to the
13 place of trial or hearing, and 12 cents a mile for returning.
14 Civilian witnesses will be paid by the Texas Military Department
15 [~~adjutant general's department~~].

16 SECTION 2.07. Section 432.194, Government Code, is amended
17 to read as follows:

18 Sec. 432.194. EXPENSES OF ADMINISTRATION. The adjutant
19 general may pay all expenses incurred in the administration of
20 state military justice, including the expenses of courts-martial
21 and expenses incurred under Sections 432.109, 432.184, and 432.192,
22 from any funds appropriated to the Texas Military Department
23 [~~adjutant general's department~~].

24 SECTION 2.08. Section 434.153, Government Code, is amended
25 to read as follows:

26 Sec. 434.153. COMPOSITION OF COUNCIL. The council is
27 composed of the executive head of the following agencies, or that

1 person's designated representative:

2 (1) the Texas Veterans Commission;

3 (2) the Veterans' Land Board;

4 (3) the Texas Military Department [~~adjutant general's~~
5 ~~department~~];

6 (4) the Health and Human Services Commission; and

7 (5) the State Bar of Texas.

8 SECTION 2.09. Section 1232.101(a), Government Code, is
9 amended to read as follows:

10 (a) With respect to all bonds authorized to be issued by or
11 on behalf of the Texas Military Department [~~adjutant general's~~
12 ~~department~~], Parks and Wildlife Department, Texas Agricultural
13 Finance Authority, Texas Low-Level Radioactive Waste Disposal
14 Authority, Midwestern State University, and Texas Southern
15 University, the authority has the exclusive authority to act on
16 behalf of those entities in issuing bonds on their behalf. In
17 connection with those issuances and with the issuance of refunding
18 bonds on behalf of those entities, the authority is subject to all
19 rights, duties, and conditions surrounding issuance previously
20 applicable to the issuing entity under the statute authorizing the
21 issuance. A reference in an authorizing statute to the entity on
22 whose behalf the bonds are being issued applies equally to the
23 authority in its capacity as issuer on behalf of the entity.

24 SECTION 2.10. Section 161.552(d), Health and Safety Code,
25 is amended to read as follows:

26 (d) The department and commission shall develop and
27 maintain the directory in collaboration with local, state, and

1 national private and government organizations, including:

- 2 (1) the United States Veterans Health Administration;
- 3 (2) the United States Department of Defense;
- 4 (3) the Texas Military Department [~~adjutant general's~~
5 ~~department~~];
- 6 (4) the Texas Veterans Commission; and
- 7 (5) other public and private national and
8 community-based organizations that provide support to
9 servicemembers and their families.

10 SECTION 2.11. Section 461.017(a), Health and Safety Code,
11 is amended to read as follows:

12 (a) The Drug Demand Reduction Advisory Committee is
13 composed of the following members:

14 (1) five representatives of the public from different
15 geographic regions of the state who have knowledge and expertise in
16 issues relating to reducing drug demand and who are appointed by the
17 commissioner of state health services [~~the Department of State~~
18 ~~Health Services~~]; and

19 (2) one representative of each of the following
20 agencies or offices who is appointed by the executive director or
21 commissioner of the agency or office and who is directly involved in
22 the agency's or office's policies, programs, or funding activities
23 relating to reducing drug demand:

24 (A) the criminal justice division of the
25 governor's office;

26 (B) the Criminal Justice Policy Council;

27 (C) the Department of Family and Protective

1 Services;
2 (D) the Department of Public Safety of the State
3 of Texas;
4 (E) the Health and Human Services Commission;
5 (F) the Texas Alcoholic Beverage Commission;
6 (G) the Department of State Health Services;
7 (H) the Texas Council on Offenders with Mental
8 Impairments;
9 (I) the Texas Department of Criminal Justice;
10 (J) the Health and Human Services Commission;
11 (K) the Department of Aging and Disability
12 Services;
13 (L) the Texas Education Agency;
14 (M) the Texas Juvenile Justice Department
15 [~~Probation Commission~~];
16 [~~(N) the Texas Youth Commission~~];
17 (N) [~~(O)~~] the Department of Assistive and
18 Rehabilitative Services;
19 (O) [~~(P)~~] the Texas Workforce Commission;
20 (P) [~~(Q)~~] the Texas Department of Motor
21 Vehicles;
22 (Q) [~~(R)~~] the comptroller of public accounts;
23 and
24 (R) [~~(S)~~] the Texas Military Department
25 [~~adjutant general's department~~].

26 SECTION 2.12. Section 31.156(e), Natural Resources Code, is
27 amended to read as follows:

1 (e) In any year that the division will evaluate real
2 property under the management and control of the Texas Military
3 Department [~~adjutant general's department~~], the division shall
4 notify the department before the division begins the evaluation.

5 SECTION 2.13. Section 31.157(d), Natural Resources Code, is
6 amended to read as follows:

7 (d) If under the Texas Military Department's [~~adjutant~~
8 ~~general's~~] report submitted as provided by Section 437.154
9 [~~431.030~~], Government Code, the department [~~adjutant general~~]
10 determines that real property under the management and control of
11 the [~~adjutant general's~~] department is used for military purposes,
12 the commissioner may not recommend a real estate transaction
13 involving that real property in the final report submitted as
14 provided by Subsection (e).

15 SECTION 2.14. Sections 74.404(b), (c), and (d), Property
16 Code, are amended to read as follows:

17 (b) A military award or decoration delivered to the
18 comptroller under this chapter:

19 (1) may not be sold under Section 74.401 or destroyed;
20 and

21 (2) shall be delivered by the comptroller to the Texas
22 Military Department [~~adjutant general's department~~].

23 (c) The Texas Military Department [~~adjutant general's~~
24 ~~department~~] shall conduct a reasonable search of public records to
25 locate the person to whom the military award or decoration was
26 awarded. If the department cannot locate the person, the
27 department shall attempt to locate the person's next of kin. If the

1 department locates the person or the person's next of kin, the
2 department shall deliver the award or decoration to the person or
3 the person's next of kin, as applicable.

4 (d) If the Texas Military Department [~~adjutant general's~~
5 ~~department~~] cannot locate the person to whom a military award or
6 decoration was awarded or the person's next of kin, the award or
7 decoration shall be held in trust for the comptroller at:

8 (1) a museum established by the department; or

9 (2) if no museum exists, any other public facility
10 designated by the department.

11 ARTICLE 3. CONFORMING AMENDMENTS

12 SECTION 3.01. Section 721.002(a), Business & Commerce Code,
13 is amended to read as follows:

14 (a) A person commits an offense if the person uses, in an
15 advertisement for a commercial purpose, the name of an individual
16 who is an active duty or former member of the United States armed
17 forces, who is a member or former member of a reserve component of
18 the United States armed forces, or who is a member or former member
19 of the state military forces, as defined by Section 437.001
20 [~~431.001~~], Government Code, or a picture of the individual in
21 uniform in which the individual is clearly identifiable, without
22 obtaining the consent of:

23 (1) the individual, if the individual is living; or

24 (2) the individual's surviving spouse or personal
25 representative or a majority of the individual's adult heirs, if
26 the individual is deceased.

27 SECTION 3.02. Section 54.345(a), Education Code, is amended

1 to read as follows:

2 (a) For each semester, the adjutant general of the state
3 military forces shall certify to institutions of higher education
4 as described by Section 437.226 [~~431.090~~], Government Code,
5 information identifying the persons to whom the adjutant general
6 has awarded assistance for tuition and mandatory fees under that
7 section.

8 SECTION 3.03. Section 411.121(a), Government Code, is
9 amended to read as follows:

10 (a) In this section:

11 (1) "Adjutant general" has the meaning assigned by
12 Section 437.001 [~~431.022~~].

13 (2) "State military forces" has the meaning assigned
14 by Section 437.001 [~~431.001~~].

15 SECTION 3.04. Section 411.1881(a), Government Code, is
16 amended to read as follows:

17 (a) Notwithstanding any other provision of this subchapter,
18 a person may not be required to complete the range instruction
19 portion of a handgun proficiency course to obtain or renew a
20 concealed handgun license issued under this subchapter if the
21 person:

22 (1) is currently serving in or is honorably discharged
23 from:

24 (A) the army, navy, air force, coast guard, or
25 marine corps of the United States or an auxiliary service or reserve
26 unit of one of those branches of the armed forces; or

27 (B) the state military forces, as defined by

1 Section 437.001 [~~431.001~~]; and

2 (2) has, within the five years preceding the date of
3 the person's application for an original or renewed license, as
4 applicable, completed a course of training in handgun proficiency
5 or familiarization as part of the person's service with the armed
6 forces or state military forces.

7 SECTION 3.05. Section 411.1951(a), Government Code, is
8 amended to read as follows:

9 (a) In this section, "veteran" means a person who:

10 (1) has served in:

11 (A) the army, navy, air force, coast guard, or
12 marine corps of the United States;

13 (B) the state military forces as defined by
14 Section 437.001 [~~431.001~~]; or

15 (C) an auxiliary service of one of those branches
16 of the armed forces; and

17 (2) has been honorably discharged from the branch of
18 the service in which the person served.

19 SECTION 3.06. Section 418.006, Government Code, is amended
20 to read as follows:

21 Sec. 418.006. CIVIL LIABILITY. An officer or employee of a
22 state or local agency, or a volunteer acting at the direction of an
23 officer or employee of a state or local agency, is considered for
24 purposes of Section 437.222 [~~431.005~~] to be a member of the state
25 military forces ordered into active service of the state by proper
26 authority and is considered to be discharging a duty in that
27 capacity if the person is performing an activity related to

1 sheltering or housing individuals in connection with the evacuation
2 of an area stricken or threatened by disaster.

3 SECTION 3.07. Sections 421.061(a), (b), and (d), Government
4 Code, are amended to read as follows:

5 (a) An officer or employee of a state or local agency
6 performing a homeland security activity or a volunteer performing a
7 homeland security activity at the request or under the direction of
8 an officer or employee of a state or local agency is considered for
9 purposes of Section 437.222 [~~431.085~~] to be a member of the state
10 military forces ordered into active service of the state by proper
11 authority and is considered to be discharging a duty in that
12 capacity if:

13 (1) the officer, employee, or volunteer is performing
14 the homeland security activity under procedures prescribed or
15 circumstances described for the purpose of this section in the
16 governor's homeland security strategy;

17 (2) in the case of a volunteer, the volunteer is acting
18 within the course and scope of the request or direction of the
19 officer or employee of the state or local agency; and

20 (3) in the case of an officer or employee of a state or
21 local agency, the officer or employee is acting within the course
22 and scope of the person's authority.

23 (b) A person described by Subsection (a) is not immune from
24 civil liability under Section 437.222 [~~431.085~~] for damages
25 resulting from the performance of a homeland security activity if,
26 under the circumstances, the person's performance of the homeland
27 security activity was wilfully or wantonly negligent or done with

1 conscious indifference or reckless disregard for the safety of
2 persons this chapter is intended to protect.

3 (d) This section does not affect the application of Section
4 437.222 [~~431.085~~] on its own terms to a person who is a member of the
5 state military forces ordered into active service of the state by
6 proper authority under other law.

7 SECTION 3.08. Section 661.903, Government Code, is amended
8 to read as follows:

9 Sec. 661.903. NATIONAL GUARD EMERGENCY. A state employee
10 who is called to state active duty as a member of the state military
11 forces by the governor because of an emergency is entitled to a
12 leave of absence without a deduction in salary in accordance with
13 Section 437.254 [~~431.0825~~]. A state employee who is called to
14 federal active duty as a member of the state military forces may not
15 receive the employee's state salary except as provided by Sections
16 661.904(d) and (f) and 661.9041.

17 SECTION 3.09. Section 1232.1025(b), Government Code, is
18 amended to read as follows:

19 (b) After receiving a request under Section 437.153
20 [~~431.0292 or 431.0302(c)~~], the board shall promptly issue and sell
21 bonds in the name of the authority to provide the requested
22 financing.

23 SECTION 3.10. Section 2308.251(2), Government Code, is
24 amended to read as follows:

25 (2) "Veteran" means a person who:

26 (A) has served in:

27 (i) the army, navy, air force, coast guard,

1 or marine corps of the United States or the United States Public
2 Health Service under 42 U.S.C. Section 201 et seq., as amended;

3 (ii) the state military forces as defined
4 by Section 437.001 [~~431.001~~]; or

5 (iii) an auxiliary service of one of those
6 branches of the armed forces; and

7 (B) has been honorably discharged from the branch
8 of the service in which the person served.

9 SECTION 3.11. Section 161.551(3), Health and Safety Code,
10 is amended to read as follows:

11 (3) "Servicemember" means a resident of this state who
12 is a member or former member of the state military forces or a
13 component of the United States armed forces, including a reserve
14 component. In this section, "state military forces" has the
15 meaning assigned by Section 437.001 [~~431.001~~], Government Code.

16 SECTION 3.12. Sections 775.039(d) and (e), Health and
17 Safety Code, are amended to read as follows:

18 (d) The differential pay provided by Subsection (a) begins
19 when the benefits allowed under Section 437.202 [~~431.005~~],
20 Government Code, are exhausted and continues until the employee's
21 active military duty terminates.

22 (e) The board may extend the insurance benefits provided by
23 the district to a district employee who is a member of the state
24 military forces or a reserve component of the United States armed
25 forces who is called to active duty and to the employee's
26 dependents. The extension period begins when the benefits allowed
27 under Section 437.202 [~~431.005~~], Government Code, are exhausted and

1 continues until the employee's active military duty terminates.

2 SECTION 3.13. Section 1001.076(a), Health and Safety Code,
3 is amended to read as follows:

4 (a) In this section, "veteran" means a person who:

5 (1) has served in:

6 (A) the army, navy, air force, coast guard, or
7 marine corps of the United States;

8 (B) the state military forces as defined by
9 Section 437.001 [~~431.001~~], Government Code; or

10 (C) an auxiliary service of one of those branches
11 of the armed forces; and

12 (2) has been honorably discharged from the branch of
13 the service in which the person served.

14 SECTION 3.14. Section 408.0445(a), Labor Code, is amended
15 to read as follows:

16 (a) For purposes of computing income benefits or death
17 benefits under Section 437.227 [~~431.104~~], Government Code, the
18 average weekly wage of a member of the state military forces as
19 defined by Section 437.001 [~~431.001~~], Government Code, who is
20 engaged in authorized training or duty is an amount equal to the sum
21 of the member's regular weekly wage at any employment the member
22 holds in addition to serving as a member of the state military
23 forces, disregarding any period during which the member is not
24 fully compensated for that employment because the member is engaged
25 in authorized military training or duty, and the member's regular
26 weekly wage as a member of the state military forces, except that
27 the amount may not exceed 100 percent of the state average weekly

1 wage as determined under Section 408.047.

2 SECTION 3.15. Section 501.001(5), Labor Code, is amended to
3 read as follows:

4 (5) "Employee" means a person who is:

5 (A) in the service of the state pursuant to an
6 election, appointment, or express oral or written contract of hire;

7 (B) paid from state funds but whose duties
8 require that the person work and frequently receive supervision in
9 a political subdivision of the state;

10 (C) a peace officer employed by a political
11 subdivision, while the peace officer is exercising authority
12 granted under:

13 (i) Article 2.12, Code of Criminal
14 Procedure; or

15 (ii) Articles 14.03(d) and (g), Code of
16 Criminal Procedure;

17 (D) a member of the state military forces, as
18 defined by Section 437.001 [~~431.001~~], Government Code, who is
19 engaged in authorized training or duty; or

20 (E) a Texas Task Force 1 member, as defined by
21 Section 88.301, Education Code, who is activated by the Texas
22 Division of Emergency Management or is injured during training
23 sponsored or sanctioned by Texas Task Force 1.

24 SECTION 3.16. Section 392.067(a), Local Government Code, is
25 amended to read as follows:

26 (a) In this section, "veteran" means a person who has served
27 on active duty in the armed forces of the United States or in the

1 state military forces as defined by Section 437.001 [~~431.001~~],
2 Government Code.

3 SECTION 3.17. Section 1804.001(1), Occupations Code, is
4 amended to read as follows:

5 (1) "Veteran" means a person who has served on active
6 duty in the armed forces of the United States or in the state
7 military forces as defined by Section 437.001 [~~431.001~~], Government
8 Code.

9 SECTION 3.18. Section 31.121(a)(2), Parks and Wildlife
10 Code, is amended to read as follows:

11 (2) "State military forces" has the meaning assigned
12 by Section 437.001 [~~431.001~~], Government Code.

13 SECTION 3.19. Section 32.54(a)(2), Penal Code, is amended
14 to read as follows:

15 (2) "State military forces" has the meaning assigned
16 by Section 437.001 [~~431.001~~], Government Code.

17 SECTION 3.20. Sections 46.15(b), (d), and (f), Penal Code,
18 are amended to read as follows:

19 (b) Section 46.02 does not apply to a person who:

20 (1) is in the actual discharge of official duties as a
21 member of the armed forces or state military forces as defined by
22 Section 437.001 [~~431.001~~], Government Code, or as a guard employed
23 by a penal institution;

24 (2) is traveling;

25 (3) is engaging in lawful hunting, fishing, or other
26 sporting activity on the immediate premises where the activity is
27 conducted, or is en route between the premises and the actor's

1 residence, motor vehicle, or watercraft, if the weapon is a type
2 commonly used in the activity;

3 (4) holds a security officer commission issued by the
4 Texas Private Security Board, if the person is engaged in the
5 performance of the person's duties as an officer commissioned under
6 Chapter 1702, Occupations Code, or is traveling to or from the
7 person's place of assignment and is wearing the officer's uniform
8 and carrying the officer's weapon in plain view;

9 (5) acts as a personal protection officer and carries
10 the person's security officer commission and personal protection
11 officer authorization, if the person:

12 (A) is engaged in the performance of the person's
13 duties as a personal protection officer under Chapter 1702,
14 Occupations Code, or is traveling to or from the person's place of
15 assignment; and

16 (B) is either:

17 (i) wearing the uniform of a security
18 officer, including any uniform or apparel described by Section
19 1702.323(d), Occupations Code, and carrying the officer's weapon in
20 plain view; or

21 (ii) not wearing the uniform of a security
22 officer and carrying the officer's weapon in a concealed manner;

23 (6) is carrying a concealed handgun and a valid
24 license issued under Subchapter H, Chapter 411, Government Code, to
25 carry a concealed handgun of the same category as the handgun the
26 person is carrying;

27 (7) holds an alcoholic beverage permit or license or

1 is an employee of a holder of an alcoholic beverage permit or
2 license if the person is supervising the operation of the permitted
3 or licensed premises; or

4 (8) is a student in a law enforcement class engaging in
5 an activity required as part of the class, if the weapon is a type
6 commonly used in the activity and the person is:

7 (A) on the immediate premises where the activity
8 is conducted; or

9 (B) en route between those premises and the
10 person's residence and is carrying the weapon unloaded.

11 (d) The provisions of Section 46.02 prohibiting the
12 carrying of a firearm or carrying of a club do not apply to a public
13 security officer employed by the adjutant general under Section
14 437.053 [~~431.029~~], Government Code, in performance of official
15 duties or while traveling to or from a place of duty.

16 (f) Section 46.03(a)(6) does not apply to a person who
17 possesses a firearm or club while in the actual discharge of
18 official duties as:

19 (1) a member of the armed forces or state military
20 forces, as defined by Section 437.001 [~~431.001~~], Government Code;
21 or

22 (2) an employee of a penal institution.

23 SECTION 3.21. Section 151.344, Tax Code, is amended to read
24 as follows:

25 Sec. 151.344. POST EXCHANGES ON STATE MILITARY PROPERTY.

26 (a) A taxable item sold, leased, or rented to, or stored, used, or
27 consumed by, a post exchange under Section 437.110 [~~431.040~~],

1 Government Code, is exempt from the taxes imposed by this chapter.

2 (b) A taxable item sold, leased, or rented by a post
3 exchange under Section 437.110 [~~431.040~~], Government Code, is
4 exempt from the taxes imposed by this chapter.

5 SECTION 3.22. Section 521.1235(a), Transportation Code, is
6 amended to read as follows:

7 (a) In this section, "veteran" means a person who:

8 (1) has served in:

9 (A) the army, navy, air force, coast guard, or
10 marine corps of the United States; or

11 (B) the Texas National Guard as defined by
12 Section 437.001 [~~431.001~~], Government Code; and

13 (2) has been honorably discharged from the branch of
14 the service in which the person served.

15 SECTION 3.23. Section 36.354(g), Utilities Code, is amended
16 to read as follows:

17 (g) For the purposes of this section, the term "military
18 base" does not include a military base:

19 (1) that has been closed or realigned under the
20 Defense Base Closure and Realignment Act of 1990 (10 U.S.C. Section
21 2687) and its subsequent amendments;

22 (2) that is administered by an authority established
23 by a municipality under Chapter 379B [~~378~~], Local Government Code
24 [~~as added by Chapter 1221, Acts of the 76th Legislature, Regular~~
25 ~~Session, 1999~~];

26 (3) that is operated by or for the benefit of the Texas
27 National Guard, as defined by Section 437.001 [~~431.001~~], Government

1 Code, unless the base is served by a municipally owned utility owned
2 by a city with a population of 650,000 or more; or

3 (4) for which a municipally owned utility has acquired
4 the electric distribution system under 10 U.S.C. Section 2688.

5 ARTICLE 4. REPEALER AND EFFECTIVE DATE

6 SECTION 4.01. Subchapters A, B, C, D, E, F, G, H, and I,
7 Chapter 431, Government Code, are repealed.

8 SECTION 4.02. This Act takes effect September 1, 2013.