By:  Troxclair H.B. No. 44

A BILL TO BE ENTITLED

AN ACT

relating to measures to ensure the safety and welfare of the southern border region of this state, including protection from ongoing criminal activity and public health threats; creating a criminal offense; creating a civil penalty.

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

ARTICLE 1. GENERAL PROVISIONS

SECTION 1.01.  SHORT TITLE. This Act shall be known as the Border Protection Unit Act.

SECTION 1.02.  FINDINGS. (a) The legislature finds that:

(1)  The security of Texans and the sovereignty of the state has been threatened by the deadly activities of transnational cartels operating throughout the State of Texas and the United States;

(2)  Many Texans have lost the peaceful use and enjoyment of their properties due to criminal activities along the border;

(3)  Lethal quantities of opioids such as fentanyl are being trafficked into Texas and resulting in the poisoning deaths of thousands of people throughout the country;

(4)  Texas is in such imminent danger as will not admit of delay, and now declares authority under Article 1, § 10 of the U.S. Constitution;

(5)  The Legislature, acting with the Governor, has the solemn duty to protect and defend the citizens of Texas, and maintain the sovereignty of Texas borders.

SECTION 1.03.  Article 2.12, Code of Criminal Procedure, is amended by amending Subsection (4) to read as follows:

(4)  rangers, officers, and members of the reserve officer corps commissioned by the Public Safety Commission, [~~and~~] the Director of the Department of Public Safety, and the unit chief of the Border Protection Unit;

SECTION 1.04.  Section 411.001, Government Code, is amended to read as follows:

Sec. 411.001.  DEFINITIONS. In this chapter:

(1)  "Commission" means the Public Safety Commission.

(2)  "Department" means the Department of Public Safety of the State of Texas.

(3)  "Director" means the public safety director.

(4)  "Internet" means the largest nonproprietary nonprofit cooperative public computer network, popularly known as the Internet.

(5)  "Unit" means the Border Protection Unit.

(6)  "Unit chief" means the person charged with directing the unit.

ARTICLE 2. POWERS AND DUTIES

SECTION 2.01.  Section 411.002, Government Code, is amended by amending Subsection (a) to read as follows:

(a)  The Department of Public Safety of the State of Texas is an agency of the state to enforce the laws protecting the public safety, [~~and~~] provide for the prevention and detection of crime, and to defend and secure the Texas air, maritime, and land border. The department is composed of the Texas Rangers, the Texas Highway Patrol, the Border Protection Unit, the administrative division, and other divisions that the commission considers necessary.

SECTION 2.02.  Sections 411.004, Government Code, is amended by amending Subdivision (1) to read as follows:

(1)  formulate plans and policies for:

(A)  enforcement of state criminal, traffic, and safety laws;

(B)  prevention of crime;

(C)  detection and apprehension of persons who violate laws; [~~and~~]

(D)  education of citizens of this state in the promotion of public safety and the observance of law; and

(E)  defense and security of the Texas air, maritime, and land border.

SECTION 2.03.  Chapter 411, Government Code, is amended by adding Sections 411.0055 and 411.0056 to read as follows:

Sec. 411.0055.  BORDER PROTECTION UNIT CHIEF. (a) The governor shall appoint a citizen of the United States as border protection unit chief. The unit chief serves until removed by the governor.

(b)  The unit chief may appoint, with the advice and consent of the commission, deputy unit chiefs and assistant unit chiefs who shall perform the duties that the unit chief designates. Deputy unit chiefs and assistant unit chiefs serve until removed by the unit chief.

(c)  The unit chief, deputy unit chiefs, and assistant unit chiefs are entitled to annual salaries as provided by the legislature.

Sec. 411.0056.  POWERS AND DUTIES OF THE BORDER PROTECTION UNIT CHIEF. (a) The unit chief shall:

(1)  be directly responsible to the commission for all conduct of the border unit;

(2)  act as the executive director of the unit;

(3)  act with the commission in an advisory capacity, without vote;

(4)  adopt rules, subject to commission approval, considered necessary for the control of the unit;

(5)  issue commissions as law enforcement officers, under the commission's direction, and to such members of the border unit;

(6)  create as necessary, with the advice and consent of the commission, operational and administrative divisions within the unit, and appoint heads of the divisions;

(7)  the unit chief may employ licensed state or local law enforcement personnel to participate in unit operations and functions.

(8)  the unit chief may employ law-abiding citizens without a felony conviction to participate in unit operations and functions, but such persons may not have arresting authority unless trained and specifically authorized by the governor.

(9)  quarterly, annually, and biennially submit to the commission detailed reports of the operation of the unit, including statements of its expenditures; and

(10)  prepare, swear to, submit to the governor, and file in the department's records a quarterly statement containing an itemized list of all money received and its source and all money spent and the purposes for which it was spent.

(b)  The unit chief or unit chief's designee shall provide to members of the commission and to unit employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(c)  The powers and duties vested in the director under the following Government Code Sections are also vested in the border protection unit chief:

(1)  Section 411.007;

(2)  Section 411.0071;

(3)  Section 411.0075;

(4)  Section 411.0079;

(5)  Section 411.009;

(6)  Section 411.0095;

(7)  Section 411.0097;

(8)  Section 411.0097;

(9)  Section 411.0098;

(10)  Section 411.013;

(11)  Section 411.0131;

(12)  Section 411.0132;

(13)  Section 411.0141;

(14)  Section 411.015;

(15)  Section 411.016;

(16)  Section 411.0161;

(17)  Section 411.0162;

(18)  Section 411.0163;

(19)  Section 411.0164;

(20)  Section 411.017;

(21)  Section 411.018;

(22)  Section 411.0207;

(23)  Section 411.0208;

(24)  Section 411.0209;

(25)  Section 411.02095;

(26)  Section 411.041;

(27)  Section 411.043;

(28)  Section 411.044;

(29)  Section 411.045;

(30)  Section 411.048;

(31)  Section 411.0603;

(32)  Section 411.0604;

(33)  Section 411.0865;

(34)  Section 411.087;

(35)  Section 411.0891;

(36)  Section 411.146;

(37)  Section 411.147;

(38)  Section 411.1471;

(39)  Section 411.151;

(40)  Section 411.154;

(41)  Section 411.242;

(42)  Section 411.243;

(43)  Section 411.251;

(44)  Section 411.252;

(45)  Section 411.253;

(46)  Section 411.255;

(47)  Section 411.263; and

(48)  Section 411.506.

(d)  The director may not exercise any operational or administrative control of the border protection unit, or the unit chief.

SECTION 2.04.  Section 411.006, Government Code, is amended by amending Subsection (a) to read as follows:

Sec. 411.006.  DUTIES OF DIRECTOR. (a) The director shall:

(1)  [~~be directly responsible to the commission for the conduct of the department's affairs;~~]

[~~(2)~~]  act as executive director for and be directly responsible to the commission for all conduct of the Texas Highway Patrol, the Texas Rangers, and other administrative divisions and departments assigned by the commission [~~of the department~~];

[~~(3)~~] (2)  act with the commission in an advisory capacity, without vote;

[~~(4)~~] (3)  adopt rules, subject to commission approval, considered necessary for the control of the department;

[~~(5)~~] (4)  issue commissions as law enforcement officers, under the commission's direction, to all members of the Texas Rangers and the Texas Highway Patrol and to other officers of the department;

[~~(6)~~] (5)  appoint, with the advice and consent of the commission, the head of a division or bureau provided for by this chapter;

[~~(7)~~] (6)  quarterly, annually, and biennially submit to the commission detailed reports of the operation of the department, including statements of its expenditures; and

[~~(8)~~] (7)  prepare, swear to, submit to the governor, and file in the department's records a quarterly statement containing an itemized list of all money received and its source and all money spent and the purposes for which it was spent.

SECTION 2.05.  Section 411.007, Government Code, is amended by amending Subsection (a) to read as follows:

(a)  Subject to the provisions of this chapter, the director and the unit chief may appoint, promote, reduce, suspend, or discharge any officer or employee of the department which has been assigned under their authority by the commission.

SECTION 2.06.  Section 411.017, Government Code, is amended by amending Subsection (a) to read as follows:

(a)  A person commits an offense if, without the director's authorization, the person:

(1)  manufactures, sells, or possesses a badge, identification card, or other item bearing a department insignia or an insignia deceptively similar to the department's;

(2)  makes a copy or likeness of a badge, identification card, or department insignia, with intent to use or allow another to use the copy or likeness to produce an item bearing the department insignia or an insignia deceptively similar to the department's; or

(3)  uses the term "Texas Department of Public Safety," "Department of Public Safety," "Texas Ranger," [~~or~~] "Texas Highway Patrol," or "Border Protection Unit" in connection with an object, with the intent to create the appearance that the object belongs to or is being used by the department.

SECTION 2.07.  Section 411.251, Government Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a)  The commission shall establish the office of inspector general for the department and the office of inspector general for the unit.

(c)  The Border Protection Unit inspector general shall be appointed by the governor who shall perform the duties of this subchapter or as may be provided by law and as the unit chief designates. The inspector general shall serve until removed by the governor. The Border Protection Unit inspector general is responsible for:

(1)  preparing and delivering assessments concerning the administration of the unit to the governor, the legislature, and the unit chief;

(2)  perform responsibilities affecting the unit as set forth in Subsection (c);

(3)  acting to prevent and detect serious breaches of departmental policy, fraud, and abuse of office, including any acts of criminal conduct within the unit; and

(4)  independently and objectively reviewing, investigating, delegating, and overseeing the investigation of:

(A)  conduct described in Subdivision (1);

(B)  criminal activity occurring within the unit;

(C)  allegations of wrongdoing by unit employees;

(D)  crimes committed on unit property; and

(E)  serious breaches of unit policy.

SECTION 2.08.  Chapter 411, Government Code, is amended by adding Subchapter S to read as follows:

SUBCHAPTER S. BORDER PROTECTION UNIT

Sec. 411.534.  COMPOSITION. (a) The Border Protection Unit ("the unit") is a division under the commission consisting of the number of officers authorized by the legislature and headquartered in the border region. The highest ranking officer of the unit is the border protection unit chief who shall be appointed by the governor, and report directly to the governor. Officers are entitled to compensation as provided by the legislature and will be recruited and trained within the border region to the fullest extent possible.

(b)  the unit chief may employ law-abiding citizens without a felony conviction to participate in unit operations and functions, but such persons may not have arresting authority unless trained and specifically authorized by the governor.

(c)  The unit shall acquire equipment and facilities, and conduct training necessary to fulfill the operational, intelligence, communication, logistics, and administrative duties set forth by the unit chief to include land, air, and maritime responsibilities.

(d)  The commission shall transfer existing personnel, equipment, and facilities to the unit from within the Department of Public Safety as necessary at the discretion of the commission while maintaining accountability and adequate support for all officers and activities within the commission's responsibility.

Sec. 411.535.  AUTHORITY OF OFFICERS. (a) An officer of the unit is governed by the law regulating and defining the powers and duties of sheriffs performing similar duties, except that the officer may make arrests and execute processes in a criminal case in any county.

(b)  Within the State of Texas, officers of the unit may, to the extent consistent with the Constitution and federal law, arrest, detain, and deter individuals crossing the border illegally, including with the use of non-deadly force.

(c)  Notwithstanding any other law, the unit chief, and all officers and employees of the unit, as well as law-abiding citizens employed, to participate in unit operations under Section 411.534(b), shall have immunity from criminal and civil liability for any actions taken that are authorized by this subchapter.

Sec. 411.536.  CONSTRUCTION AND MAINTENANCE OF PHYSICAL BARRIERS. (a) The unit shall oversee the construction and maintenance of walls, fences, and other physical barriers along the border with Mexico in order to enhance the safety and security of Texans.

(b)  The unit chief, or his designee, is authorized to negotiate and acquire the necessary right of way, leases, permissions, materials, and services needed to erect, and maintain physical barriers.

(c)  The unit may use funds appropriated by the legislature, other government funds, or donations from United States citizens and domestic entities.

Sec. 411.537.  ARTICLE I § 10 INVOCATION. (a) To the extent consistent with the United States and Texas constitutions and federal and state law, in the event that the legislature finds, or the governor has declared, or declares, a state of invasion or imminent danger under Article I § 10 of the U.S. Constitution, the unit chief shall be authorized to order the unit to take the following actions:

(1)  deter and repel persons attempting to enter the State of Texas illegally at locations outside a port of entry, to the extent consistent with the United States and Texas constitutions and federal immigration laws;

(2)  within the State of Texas, return aliens to Mexico who have been observed actually crossing the Mexican border illegally, and were apprehended or detained in the immediate vicinity of the border, to the extent consistent with the United States and Texas constitutions and federal immigration laws;

(3)  use force to repel, arrest, and detain known transnational cartel operatives in the border region, to the extent consistent with the United States and Texas constitutions and federal immigration laws.

Sec. 411.538.  QUALIFICATIONS. (a) To be commissioned as an officer of the Border Protection Unit, a person must:

(1)  be a U.S. citizen or legal permanent resident;

(2)  be a graduate of a Texas police academy;

(3)  have experience as a sworn law-enforcement officer in another state or federal law-enforcement agency; or

(4)  be appointed or employed per the criteria provided in Section 411.534(b) of this Act.

(b)  The border protection unit is an equal employment opportunity employer, and it may not discriminate against or give preferential treatment to any employee or job applicant on account of the individual's race, color, sex, national origin, or religion.

Sec. 411.539.  TERM OF AUTHORIZATION. The unit is established upon passage of this act, subject to appropriations from the legislature, and shall continue in operation until December 31, 2030. The legislature shall reauthorize the unit prior to its sunset date or the entity is considered to be effectively abolished.

Sec. 411.540.  RULEMAKING AUTHORITY. The unit chief of the unit may promulgate such substantive or procedural rules as may be required to carry out the general administration of the unit, including, but not limited to: procurement of facilities, training and equipment, and effectuation of personnel policies.

Sec. 411.541.  OPERATIONAL PLAN TO COORDINATE BORDER SECURITY. (a) The unit shall develop and recommend to the governor and report to the legislature a strategic plan that establishes the framework for the budgeting and operation of the unit, including homeland security strategies, administered by assisting agencies. The unit shall annually report to the governor and the legislature on the implementation of the strategic plan.

(b)  The unit shall include in the strategic plan goals, objectives, and performance measures that involve collaboration with other state agencies, and local entities.

(c)  The unit shall create plans and conduct operations consistent with the strategic plan.

(d)  The operational plan under this section shall evaluate 8 U.S.C. § 1325(a) and other federal laws relating to the requirement that border crossings occur only at designated ports of entry.

Sec. 411.542.  SEVERABILITY. (a) Mindful of *Leavitt v. Jane L.*, 518 U.S. 137 (1996), in which in the context of determining the severability of a state statute the Supreme Court of the United States held that an explicit statement of legislative intent is controlling, it is the intent of the legislature that every provision, section, subsection, sentence, clause, phrase, or word in this subchapter, and every application of the provisions in this subchapter to every person, group of persons, or circumstances, are severable from each other.

(b)  If any application of any provision in this subchapter to any person, group of persons, or circumstances is found by a court to be invalid, preempted, or unconstitutional, for any reason whatsoever, then the remaining applications of that provision to all other persons and circumstances shall be severed and preserved, and shall remain in effect. All constitutionally valid applications of the provisions in this subchapter shall be severed from any applications that a court finds to be invalid, preempted, or unconstitutional, because it is the legislature's intent and priority that every single valid application of every statutory provision be allowed to stand alone.

(c)  The legislature further declares that it would have enacted this subchapter, and each provision, section, subsection, sentence, clause, phrase, or word, and all constitutional applications of the provisions of this subchapter, irrespective of the fact that any provision, section, subsection, sentence, clause, phrase, or word, or applications of this subchapter were to be declared invalid, preempted, or unconstitutional.

(d)  If any provision of this subchapter is found by any court to be unconstitutionally vague, then the applications of that provision that do not present constitutional vagueness problems shall be severed and remain in force, consistent with the severability requirements of Subsections (a), (b), and (c).

(e)  No court may decline to enforce the severability requirements of Subsections (a), (b), (c), and (d) on the ground that severance would "rewrite" the statute or involve the court in legislative or lawmaking activity. A court that declines to enforce or enjoins a state official from enforcing a statutory provision is never rewriting a statute or engaging in legislative or lawmaking activity, as the statute continues to contain the same words as before the court's decision. A judicial injunction or declaration of unconstitutionality:

(1)  is nothing more than an edict prohibiting enforcement of the disputed statute against the named parties to that lawsuit, which may subsequently be vacated by a later court if that court has a different understanding of the requirements of the Texas Constitution or the United States Constitution or federal law;

(2)  is not a formal amendment of the language in a statute; and

(3)  no more rewrites a statute than a decision by the executive not to enforce a duly enacted statute in a limited and defined set of circumstances.

(f)  If any state or federal court disregards any of the severability requirements in Subsections (a), (b), (c), (d), or (e), and declares or finds any provision of this subchapter facially invalid, preempted, or unconstitutional, when there are discrete applications of that provision that can be enforced against a person, group of persons, or circumstances without violating federal law or the federal or state constitutions, then that provision shall be interpreted, as a matter of state law, as if the legislature had enacted a provision limited to the persons, group of persons, or circumstances for which the provision's application will not violate federal law or the federal or state constitutions, and every court shall adopt this saving construction of that provision until the court ruling that pronounced the provision facially invalid, preempted, or unconstitutional is vacated or overruled.

ARTICLE 3. TRESPASS

SECTION 3.01.  Chapter 30, Penal Code, is amended by adding Section 30.08 to read as follows:

Sec. 30.08.  TRESPASS WHILE ENTERING THE STATE OF TEXAS. (a) A person commits an offense if the person knowingly enters the property of another without effective consent when knowingly entering the state of Texas from a neighboring jurisdiction.

(b)  An offense under this section is a third degree felony.

(c)  A person who violates this section is subject to a civil penalty of not less than $10,000 for each violation. The attorney general may file an action to recover a civil penalty assessed under this section and may recover attorney's fees and costs incurred in bringing the action.

(d)  The fact that conduct is subject to a civil or criminal penalty under this section does not abolish or impair any remedy for the conduct that is available in a civil suit.

SECTION 3.02.  Section 17.44, Code of Criminal Procedure, is amended to read as follows:

(a)  A magistrate may require as a condition of release on bond that the defendant submit to:

(1)  home confinement and electronic monitoring under the supervision of an agency designated by the magistrate; or

(2)  testing on a weekly basis for the presence of a controlled substance in the defendant's body.

(b)  In this article, "controlled substance" has the meaning assigned by Section 481.002, Health and Safety Code.

(c)  A magistrate shall require as a condition of release on bond for someone arrested for the offense of Penal Code 30.08 Trespass While Entering the State of Texas that the defendant submit to electronic monitoring unless the magistrate makes a finding that the defendant is not a flight risk.

[~~(c)~~] (d)  The magistrate may revoke the bond and order the defendant arrested if the defendant:

(1)  violates a condition of home confinement and electronic monitoring;

(2)  refuses to submit to a test for controlled substances or submits to a test for controlled substances and the test indicates the presence of a controlled substance in the defendant's body; or

(3)  fails to pay the reimbursement fee for monitoring or testing for controlled substances, if payment is ordered under Subsection (e) as a condition of bond and the magistrate determines that the defendant is not indigent and is financially able to make the payments as ordered.

[~~(d)~~] (e)  The community justice assistance division of the Texas Department of Criminal Justice may provide grants to counties to implement electronic monitoring programs authorized by this article.

[~~(e)~~] (f)  The cost of electronic monitoring or testing for controlled substances under this article may be assessed as a reimbursement fee or ordered paid directly by the defendant as a condition of bond.

ARTICLE 4. PUBLIC HEALTH EMERGENCY

SECTION 4.01.  Subtitle D, Title 2, Health and Safety Code, is amended by adding Chapter 81B to read as follows:

CHAPTER 81B. SUSPENSION OF ENTRY OF PERSONS FROM DESIGNATED

PLACES TO PREVENT SPREAD OF COMMUNICABLE DISEASES

Sec. 81B.001.  DEFINITIONS. In this chapter:

(1)  "COVID-19" means the 2019 novel coronavirus disease.

(2)  "Federally declared public health emergency" means:

(A)  a public health emergency declared by the United States Secretary of Health and Human Services under 42 U.S.C. Section 247d; or

(B)  an emergency or disaster declared, including under a renewal of the declaration, by the president of the United States in relation to a public health emergency described by Paragraph (A) under:

(i)  the National Emergencies Act (50 U.S.C. Section 1601 et seq.); or

(ii)  the Robert T. Stafford Disaster Relief and Emergency Assistant Act (42 U.S.C. Section 5121 et seq.).

(3)  "Port of entry" means a port of entry in the United States, as defined by part 101 of the customs regulations (19 CFR part 101).

(4)  "Person" means any individual other than:

(A)  one described in the first sentence of section 1 of the Fourteenth Amendment to the United States Constitution; or

(B)  one described in 8 U.S.C. § 1101(a)(20).

Sec. 81B.002.  SUSPENSION OF ENTRY. (a) To the extent consistent with the Constitution and federal immigration laws, during any of the following, all persons entering Texas by land from another country must pass through a legal port of entry for appropriate medical review:

(1)  the pendency of any federally declared public health emergency for COVID-19,

(2)  at any time which the federal government has in place any vaccination requirements for any person lawfully residing in the United States, including but not limited to government contractors or healthcare workers, for the purposes of preventing the spread of COVID-19 in the United States, or

(3)  at any time which the U.S. Department of State has travel warnings for COVID-19 for any country from which citizens have illegally entered the United States during the most recent year for which there is available data.

(b)  Any person who enters the State of Texas from a foreign country other than in accordance with Subsection (a), shall, to the extent consistent with the Constitution and federal immigration laws, be removed to the country from which they entered the United States, or their country of origin, or another location as practicable, as rapidly as possible, with as little time spent in congregate settings as practicable under the circumstances.

Sec. 81B.003.  SEVERABILITY. (a) Mindful of *Leavitt v. Jane L.*, 518 U.S. 137 (1996), in which in the context of determining the severability of a state statute the Supreme Court of the United States held that an explicit statement of legislative intent is controlling, it is the intent of the legislature that every provision, section, subsection, sentence, clause, phrase, or word in this chapter, and every application of the provisions in this chapter to every person, group of persons, or circumstances, are severable from each other.

(b)  If any application of any provision in this chapter to any person, group of persons, or circumstances is found by a court to be invalid, preempted, or unconstitutional, for any reason whatsoever, then the remaining applications of that provision to all other persons and circumstances shall be severed and preserved, and shall remain in effect. All constitutionally valid applications of the provisions in this chapter shall be severed from any applications that a court finds to be invalid, preempted, or unconstitutional, because it is the legislature's intent and priority that every single valid application of every statutory provision be allowed to stand alone.

(c)  The legislature further declares that it would have enacted this chapter, and each provision, section, subsection, sentence, clause, phrase, or word, and all constitutional applications of the provisions of this chapter, irrespective of the fact that any provision, section, subsection, sentence, clause, phrase, or word, or applications of this chapter were to be declared invalid, preempted, or unconstitutional.

(d)  If any provision of this chapter is found by any court to be unconstitutionally vague, then the applications of that provision that do not present constitutional vagueness problems shall be severed and remain in force, consistent with the severability requirements of Subsections (a), (b), and (c).

(e)  No court may decline to enforce the severability requirements of Subsections (a), (b), (c), and (d) on the ground that severance would "rewrite" the statute or involve the court in legislative or lawmaking activity. A court that declines to enforce or enjoins a state official from enforcing a statutory provision is never rewriting a statute or engaging in legislative or lawmaking activity, as the statute continues to contain the same words as before the court's decision. A judicial injunction or declaration of unconstitutionality:

(1)  is nothing more than an edict prohibiting enforcement of the disputed statute against the named parties to that lawsuit, which may subsequently be vacated by a later court if that court has a different understanding of the requirements of the Texas Constitution or the United States Constitution or federal law;

(2)  is not a formal amendment of the language in a statute; and

(3)  no more rewrites a statute than a decision by the executive not to enforce a duly enacted statute in a limited and defined set of circumstances.

(f)  If any state or federal court disregards any of the severability requirements in Subsections (a), (b), (c), (d), or (e), and declares or finds any provision of this chapter facially invalid, preempted, or unconstitutional, when there are discrete applications of that provision that can be enforced against a person, group of persons, or circumstances without violating federal law or the federal or state constitutions, then that provision shall be interpreted, as a matter of state law, as if the legislature had enacted a provision limited to the persons, group of persons, or circumstances for which the provision's application will not violate federal law or the federal or state constitutions, and every court shall adopt this saving construction of that provision until the court ruling that pronounced the provision facially invalid, preempted, or unconstitutional is vacated or overruled.

ARTICLE 5. LEGISLATIVE OVERSIGHT

SECTION 5.01.  Subtitle C, Title 3, Government Code, is amended by adding Chapter 331 to read as follows:

CHAPTER 331. LEGISLATIVE BORDER SAFETY OVERSIGHT COMMITTEE

Sec. 331.001.  DEFINITION. In this section, "committee" means the legislative border safety oversight committee established under this chapter.

Sec. 331.002.  ESTABLISHMENT; COMPOSITION. (a) The legislative border safety oversight committee is established to:

(1)  provide objective research, analysis, and recommendations to help guide state border safety policies;

(2) provide oversight for the border protection unit established under Chapter C-1, Chapter 411; and

(3)  perform other duties required by law.

(b)  The committee consists of the following members:

(1)  the lieutenant governor;

(2)  the speaker of the house of representatives;

(3)  four members of the senate appointed by the lieutenant governor; and

(4)  four members of the house appointed by the speaker.

(c)  The lieutenant governor and the speaker of the house of representatives are joint chairs of the committee.

(d)  A majority of the members of the committee from each house of the legislature constitutes a quorum to transact business. If a quorum is present, the committee may act on any matter within the committee's jurisdiction by a majority vote.

(e)  The committee shall meet as often as necessary to perform the committee's duties. Meetings may be held at any time at the request of either chair or on written petition of a majority of the committee members from each house of the legislature.

(f)  The committee shall meet in Austin, except that if a majority of the committee members from each house of the legislature agree, the committee may meet in any location determined by the committee.

(g)  As an exception to Chapter 551, Government Code, and other law, for a meeting in Austin at which both joint chairs of the committee are physically present, any number of the other committee members may attend the meeting by use of telephone conference call, video conference call, or other similar telecommunication device. This subsection applies for purposes of establishing a quorum or voting or any other purpose allowing the members to fully participate in any committee meeting. This subsection applies without regard to the subject or topics considered by the members at the meeting.

(h)  A committee meeting held by use of telephone conference call, video conference call, or other similar telecommunication device:

(1)  is subject to the notice requirements applicable to other meetings;

(2)  must specify in the notice of the meeting the location in Austin at which the joint chairs will be physically present;

(3)  must be open to the public and audible to the public at the location specified in the notice under Subdivision (2); and

(4)  must provide two-way audio communication between all committee members attending the meeting during the entire meeting, and if the two-way audio communication link with any member attending the meeting is disrupted at any time, the meeting may not continue until the two-way audio communication link is reestablished.

Sec. 331.003.  POWERS AND DUTIES. (a) The committee shall:

(1)  use statistical analyses and other research methods to conduct an in-depth examination of border safety initiatives and programs in this state that includes:

(A)  an assessment of the cost-effectiveness of the use of state and local funds in ensuring border safety;

(B)  an identification of critical border safety problems; and

(C)  a determination of the state's long-range border safety needs;

(2)  recommend to the legislature:

(A)  strategies to solve the problems identified under Subdivision (1)(B); and

(B)  policy priorities to address the long-range needs determined under Subdivision (1)(C); and

(3)  advise and assist the legislature in developing plans, programs, and proposed legislation to improve the effectiveness of border safety initiatives and programs.

(b)  The committee has all other powers and duties provided to a special committee by:

(1)  Subchapter B, Chapter 301;

(2)  the rules of the senate and the house of representatives; and

(3)  policies of the senate and house committees on administration.

Sec. 331.004.  STAFF; AUTHORITY TO CONTRACT. The committee may hire staff or may contract with universities or other suitable entities to assist the committee in carrying out the committee's duties. Funding to support the operation of the committee shall be provided from funds appropriated to the Texas Legislative Council.

Sec. 328.005.  REPORT. Not later than January 1 of each odd-numbered year, the committee shall submit to the legislature a report that contains the recommendations described by Section 331.003(a)(2).

ARTICLE 6. SEVERABILITY; EFFECTIVE DATE

SECTION 6.01.  If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SECTION 6.02.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.