

BILL ANALYSIS

Senate Research Center

H.B. 7
By: Guillen et al. (Birdwell)
Border Security
5/15/2023
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The southern border region of Texas is facing significant challenges related to individuals and contraband crossing the Texas-Mexico border between the ports of entry. The challenges created by these undocumented crossings are not limited to the immediate areas closest to the border but permeate throughout the other border region counties. This creates a strain across various public services throughout the border region counties, especially with respect to the judicial system, law enforcement, public safety, and public health. Individual property owners face damages to their assets. Economic drivers like commercial trade and primary dollar industries also suffer from direct and indirect consequences negatively impacting them. H.B. 7 seeks to address funding shortages in Texas border region communities dealing with the crossings between the ports of entry related to facilities, equipment, and operations in the judicial system, law enforcement, public safety, communications, public health, and more. The bill also seeks to create a mechanism to compensate property owners for damages caused by crossings between ports of entry and to address challenges in the homeland security workforce pipeline, commercial trade, and investment attraction.

H.B. 7 amends current law relating to border protection and economic development services, programs, and other measures, including establishing educational programs and the border protection unit, in this state to address the effects of ongoing disasters, including disasters caused by transnational and other criminal activity and public health threats.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Office of Court Administration of the Texas Judicial System in SECTION 3.01 (Section 72.203, Government Code) of this bill.

Rulemaking authority is expressly granted to the Office of the Governor in SECTION 4.01 (Section 421.114, Government Code) of this bill.

Rulemaking authority is expressly granted to the Attorney General of Texas in SECTION 5.03 (Article 56C.002, Code of Criminal Procedure) of this bill.

Rulemaking authority is expressly granted to the Texas Higher Education Coordinating Board in SECTION 6.01 (Section 61.103, Education Code) of this bill.

Rulemaking authority is expressly granted to the unit chief of the Border Protection Unit in SECTION 8.07 (Section 411.556, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. LEGISLATIVE FINDING

SECTION 1.01. Provides that the legislature, acting with the governor, has the solemn duty to protect and defend the citizens of this state and maintain sovereignty over this state's borders.

ARTICLE 2. BORDER PROTECTION AGREEMENTS

SECTION 2.01. Amends Title 7, Government Code, by adding Chapter 794, as follows:

CHAPTER 794. BORDER PROTECTION AGREEMENTS WITH
UNITED MEXICAN STATES

Sec. 794.001. AUTHORITY FOR AGREEMENTS. Authorizes the governor, behalf of this state, to coordinate, develop, and execute agreements with the United Mexican States and the states of the United Mexican States regarding the authority of this state to protect and defend its citizens on.

ARTICLE 3. BORDER REGION COURT PROGRAM

SECTION 3.01. Amends Chapter 72, Government Code, by adding Subchapter H, as follows:

SUBCHAPTER H. BORDER PROTECTION COURT GRANT PROGRAM

Sec. 72.201. DEFINITIONS. Defines "border-related offense" and "border region."

Sec. 72.202. GRANT PROGRAM. (a) Requires the Office of Court Administration of the Texas Judicial System (OCA), from money appropriated for that purpose, to establish and administer a grant program to support the operation of courts in the border region with the adjudication of border-related offenses.

(b) Authorizes OCA, in addition to other funds appropriated by the legislature and for purposes of administering and funding the grant program, to:

(1) seek and apply for any available federal funds; and

(2) solicit and accept gifts, grants, and donations from any other source, public or private, as necessary to ensure resources are available to achieve the purpose described by Subsection (a).

(c) Authorizes the grants awarded under this subchapter to be used for the reimbursement of costs associated with the operation of a court, including the:

(1) salary of a visiting judge appointed under Chapter 74 (Court Administration Act);

(2) salary and benefits of an associate judge, court coordinator, court administrator, court reporter, and court interpreter;

(3) salary and benefits of district and county clerk staff;

(4) travel costs and other expenses incurred by court personnel and judges in the performance of their duties;

(5) cost of equipment necessary for personnel dedicated to the processing and adjudicating of border-related offenses; or

(6) fees and related expenses for the appointment of counsel to represent an indigent defendant under Chapter 26 (Arraignment), Code of Criminal Procedure, or the costs to operate a public defender's office or managed assigned counsel program under that chapter, as those fees and expenses relate to the adjudication of border-related offenses.

Sec. 72.203. RULES. (a) Requires OCA to adopt rules for the administration and operation of the grant program established under this subchapter.

(b) Requires OCA, in adopting the rules, to:

(1) conduct a study of the data collected for this purpose or otherwise available on crime, arrests, detentions, and convictions to identify offenses for which prosecutions have increased as a result of Operation Lone Star; and

(2) solicit from governmental officials, community leaders, and other interested persons in the border region information necessary to identify the courts of the region needing financial assistance.

(c) Requires that the rules include:

(1) administrative provisions for grants awarded under this subchapter, including:

(A) eligibility criteria for grant applicants, including criteria to limit eligibility to those applicants experiencing an increase in caseloads;

(B) grant application procedures;

(C) guidelines relating to grant amounts;

(D) procedures for evaluating grant applications; and

(E) procedures for monitoring the use of grants;

(2) methods for tracking the effectiveness of grants and the efficiency of the applicants receiving grants; and

(3) procedures for reporting caseload data at least annually, including caseload data necessary to update the study described by Section 72.2055.

Sec. 72.204. GRANT AMOUNTS. Prohibits the amount of a grant awarded under this section from exceeding the amount set by the General Appropriations Act.

Sec. 72.205. REPORTING REQUIREMENTS FOR GRANT RECIPIENTS. Requires the recipient of a grant awarded under this subchapter to submit to OCA an annual report on the grant money spent during the year covered by the report and the purposes for which that money was spent.

Sec. 72.2055. ANNUAL REPORT BY OFFICE. Requires OCA to update the study conducted under Section 72.203(b)(1) annually using caseload data required to be reported under the rules adopted under Section 72.203(c).

Sec. 72.206. ADMINISTRATIVE COSTS. Authorizes OCA to use a reasonable amount, not to exceed five percent, of any general revenue appropriated for purposes of this subchapter to pay the costs of administering the grant program, unless otherwise provided by the appropriation.

SECTION 3.02. Requires OCA to, as soon as practicable after the effective date of this Act, with respect to Subchapter H, Chapter 72, Government Code, as added by this Act:

(1) adopt rules as necessary to implement the subchapter; and

(2) establish the grant program required by the subchapter.

ARTICLE 4. FINANCIAL ASSISTANCE FOR INFRASTRUCTURE, FACILITIES, EQUIPMENT, AND SERVICES IN THE BORDER REGION

SECTION 4.01. Amends Chapter 421, Government Code, by adding Subchapter G, as follows:

SUBCHAPTER G. USE OF FUNDS FOR BORDER PROTECTION AND PUBLIC SAFETY

Sec. 421.111. DEFINITIONS. Defines "border region," "local government," and "office."

Sec. 421.112. USE OF CERTAIN FUNDS. Requires the Office of the Governor (governor's office), from money appropriated for that purpose, as authorized by Chapter 418 (Emergency Management), including Subchapter D (Finance) of that chapter, to make funds available to state agencies and local governments for the following purposes:

- (1) the construction and maintenance of facilities related to prosecuting and adjudicating offenses committed in the border region, including court facilities, processing facilities, detention facilities for persons who are 10 years of age or older, regardless of gender, criminal justice centers, and other similar facilities;
- (2) the payment of staff salaries and benefits and the payment of operational expenses related to providing law enforcement services;
- (3) the purchase or maintenance of equipment related to providing public health and safety services in the border region, including law enforcement services, communication services, and emergency services, to enhance the safety and security of the citizens of this state;
- (4) the construction and maintenance of temporary border security infrastructure, including temporary barriers, fences, wires, roads, trenches, surveillance technology, or other improvements, designed or adapted to surveil or impede the movement of persons or objects across the Texas-Mexico border at locations other than ports of entry;
- (5) the construction of improvements to an area in the immediate vicinity of a port of entry to enhance vehicle inspection capabilities and assist in the investigation, interdiction, and prosecution of persons smuggling individuals or contraband across the Texas-Mexico border; and
- (6) the construction or improvement of roadways and similar transportation facilities in the border region that provide for detailed monitoring of commercial motor vehicles traveling along the roadways and facilities.

Sec. 421.113. FEDERAL FUNDS; GIFTS, GRANTS, AND DONATIONS. Authorizes the governor's office, in addition to funds appropriated by the legislature and for purposes of this subchapter, to:

- (1) seek and apply for any available federal funds; and
- (2) solicit and accept gifts, grants, and donations from any other source, public or private.

Sec. 421.114. RULES. Authorizes the governor's office to adopt rules for the administration of this subchapter.

Sec. 421.115. REPORTING REQUIREMENTS. (a) Requires the recipient of funds for a purpose described by Section 421.112 to submit to governor's office reports on an interval prescribed by the governor's office regarding the use of the funds and any other issue related to the funds as determined by the governor's office.

- (b) Provides that funds received by a state agency for a purpose described by Section 421.112 are considered border security funding for purposes of reporting requirements in the General Appropriations Act.

Sec. 421.116. ADMINISTRATIVE COSTS. Authorizes the division to use a reasonable amount, not to exceed five percent, of any general revenue appropriated for purposes of this subchapter to pay the costs of administering this subchapter, unless otherwise provided by the appropriation.

SECTION 4.02. Requires the governor's office to adopt rules as necessary to implement Subchapter G, Chapter 421, Government Code, as added by this Act, as soon as practicable after the effective date of this Act.

ARTICLE 5. BORDER PROTECTION PROPERTY DAMAGE PROGRAM

SECTION 5.01. Amends Article 59.06(t)(1), Code of Criminal Procedure, as follows:

(t)(1) Deletes existing text providing that this subsection applies to contraband for which forfeiture is authorized with respect to an offense under Sections 20.05 (May Send for Attorney) or 20.06 (Advice From Court).

SECTION 5.02. Amends Article 59.06, Code of Criminal Procedure, by adding Subsection (v), as follows:

(v) Requires the attorney representing the state, notwithstanding any other provision of this article, with respect to forfeited property seized in connection with an offense under Section 20.05 (Smuggling of Persons) or 20.06 (Continuous Smuggling of Persons), Penal Code, in a proceeding under Article 59.05 (Forfeiture Hearing) in which judgment is rendered in favor of the state, to transfer the proceeds from the sale of the forfeited property under Subsection (a) (relating to requiring that all forfeited property be administered by the attorney representing the state) to the Comptroller of Public Accounts of the State of Texas for deposit to the credit of the border property damage compensation program established under Chapter 56C.

SECTION 5.03. Amends Title 1, Code of Criminal Procedure, by adding Chapter 56C, as follows:

CHAPTER 56C. BORDER PROPERTY DAMAGE COMPENSATION PROGRAM

Art. 56C.001. DEFINITIONS. Defines "border crime," "border region," and "trespasser."

Art. 56C.002. ADMINISTRATION; RULES. (a) Requires the attorney general to adopt rules to administer this chapter.

(b) Provides that Subchapters A (General Provisions) and B (Rulemaking), Chapter 2001, Government Code, except Sections 2001.004(3) (relating to requiring a state agency to index, cross-index to the statute, and make available for public inspection all final orders, decisions, and opinions) and 2001.005 (Rule, Order, or Decision Not Effective Until Indexed), apply to the attorney general.

(c) Authorizes the attorney general to delegate to a person in Office of the Attorney General a power or duty given to the attorney general under this chapter.

Art. 56C.003. BORDER PROPERTY DAMAGE COMPENSATION PROGRAM. (a) Requires the attorney general, from the funding sources described by Subsection (b), to establish and administer a program to compensate persons residing in the border region who suffer real or personal property damage caused by:

(1) a trespasser as a result of an offense under Chapter 28 (Arson, Criminal Mischief, and Other Property Damage or Destruction), Penal Code, that was committed in the course of or in furtherance of a border crime; or

(2) a law enforcement response to a trespasser who was engaged in a border crime.

(b) Authorizes the attorney general to use money from the following sources to establish the program described by Subsection (a):

(1) money appropriated, credited, or transferred by the legislature for purposes of the program;

(2) revenue that the legislature by statute dedicates for deposit to the credit of the program;

(3) investment earnings and interest earned on money held for purposes of administering the program;

(4) gifts, grants, and donations received by the state for purposes of the program; and

(5) proceeds received under Article 59.06(v).

(c) Requires the attorney general to establish:

(1) eligibility criteria for compensation under this article, including requirements for providing proof of eligibility for compensation;

(2) application procedures;

(3) criteria for evaluating applications and awarding compensation;

(4) guidelines related to compensation amounts, provided that the maximum amount awarded per incident causing damage is prohibited from exceeding \$75,000; and

(5) procedures for monitoring the use of compensation awarded under this article and ensuring compliance with any conditions of the award.

(d) Prohibits the attorney general from awarding compensation under this article for property damage caused by a trespasser described by Subsection (a)(1) unless the damage is documented in a written report by a law enforcement agency as having occurred in connection with a border crime.

(e) Prohibits the attorney general, in awarding compensation under this article for property damage caused by a trespasser described by Subsection (a)(1), from considering the outcome of any criminal prosecution arising out of the offense under Chapter 28, Penal Code, as a result of which the applicant suffered property damage or the applicable offense listed in Article 56C.001(1)(A).

Art. 56C.004. HEARINGS AND PREHEARING CONFERENCES. (a) Requires the attorney general to determine whether a hearing on an application for compensation under this chapter is necessary.

(b) Authorizes the attorney general to approve the application on determining that a hearing is not necessary.

(c) Requires the attorney general, on determining that a hearing is necessary or on request for a hearing by the applicant, to consider the application at a hearing at a time and place of the attorney general's choosing. Requires the attorney general to notify all interested persons not later than the 10th day before the date of the hearing.

- (d) Requires the attorney general, at the hearing, to:
 - (1) review the application for compensation; and
 - (2) receive other evidence that the attorney general finds necessary or desirable to evaluate the application properly.
- (e) Authorizes the attorney general to appoint hearing officers to conduct hearings or prehearing conferences under this chapter.
- (f) Provides that a hearing or prehearing conference is open to the public unless the hearing officer or attorney general determines in a particular case that all or part of the hearing or conference should be held in private because a private hearing or conference is in the interest of the applicant.
- (g) Provides that Subchapters C (Contested Cases: General Rights and Procedures) through H (Court Enforcement), Chapter 2001, Government Code, do not apply to the attorney general or the attorney general's orders and decisions.

Art. 56C.005. ANNUAL REPORT. Requires the attorney general, not later than the 100th day after the end of each state fiscal year, to submit to the governor and the legislature a report on the attorney general's activities under this chapter during the preceding fiscal year that includes the following information, disaggregated by each offense listed in Article 56C.001(1)(A):

- (1) the number of applications made;
- (2) the number of applicants receiving compensation; and
- (3) the amount of compensation awarded.

Art. 56C.006. PAYER OF LAST RESORT. (a) Provides that the program established under Article 56C.003 is a payer of last resort for property damage described by that article.

- (b) Prohibits the attorney general from awarding compensation to an applicant under Article 56C.003 if the attorney general determines that the applicant:
 - (1) is eligible for reimbursement from another source, including under an insurance contract or a state, local, or federal program; and
 - (2) failed to seek reimbursement from the source described by Subdivision (1).

ARTICLE 6. EDUCATIONAL PROGRAM

SECTION 6.01. Amends Chapter 61, Education Code, by adding Subchapter D-1, as follows:

SUBCHAPTER D-1. BORDER INSTITUTION GRANT PROGRAM

Sec. 61.101. BORDER INSTITUTION GRANT PROGRAM. (a) Defines "border region."

- (b) Requires the Texas Higher Education Coordinating Board (THECB), subject to the availability of funds, to establish a border institution grant program under which THECB awards financial assistance to institutions of higher education located in the border region that administer innovative programs designed to:
 - (1) recruit, train, retain, or otherwise increase the number of professionals in fields related to border safety or affected by ongoing criminal activity

and public health threats to the border region, as determined by THECB rule, including by providing a salary increase or stipend to a faculty member who provides instruction to additional students in a degree or certificate program that graduates those professionals; and

(2) conduct research in areas of study related to border safety or the effects of ongoing criminal activity and public health threats to the border region.

Sec. 61.102. FEDERAL FUNDS AND GIFTS, GRANTS, AND DONATIONS. Authorizes THECB, in addition to other funds appropriated by the legislature and for the purposes described by Section 61.101, to:

(1) seek and apply for any available federal funds; and

(2) solicit and accept gifts, grants, and donations from any other source, public or private, as necessary to ensure effective implementation of the grant program established under this subchapter.

Sec. 61.103. RULES. (a) Requires THECB to adopt rules for the administration of the grant program established under this subchapter. Requires THECB, in adopting the rules, to solicit from border region officials, community leaders in the border region, and other stakeholders, information necessary to identify innovative programs anticipated to produce the best outcomes and serve the greatest need.

(b) Requires that the rules include:

(1) administrative provisions for grants awarded under this subchapter, including:

(A) eligibility criteria for institutions of higher education, including a requirement that the institution demonstrate regional and state workforce need;

(B) grant application procedures;

(C) guidelines relating to grant amounts;

(D) procedures for evaluating grant applications; and

(E) procedures for monitoring the use of grants; and

(2) methods for tracking the effectiveness of grants that:

(A) using data reasonably available to THECB, consider relevant information regarding the career paths of professionals described by Section 61.101 during the four-year period following their graduation; and

(B) evaluate whether and for how long those professionals practice in a field described by Section 61.101 in this state.

Sec. 61.104. AWARD OF GRANTS. Requires THECB, in awarding grants under this subchapter, to give priority to applicants that propose to:

(1) enhance or leverage existing degree programs that graduate professionals described by Section 61.101;

(2) establish or maintain a program that serves a rural or underserved area;

(3) partner with another institution of higher education to develop a joint program;

(4) establish or maintain a program that incentivizes professionals described by Section 61.101 to serve in their field or a related field of study for at least three consecutive years following graduation; and

(5) establish or maintain a degree or certificate program to educate professionals in specialties that face significant workforce shortages, including those described by Section 61.101.

Sec. 61.105. GRANT AMOUNTS. Prohibits the amount of a grant awarded under this subchapter from exceeding an amount specified in the General Appropriations Act.

Sec. 61.106. REPORTING REQUIREMENTS. Requires an institution of higher education that receives a grant awarded under this subchapter to submit to THECB an annual report on the amounts and purposes for which grant money was spent during the year covered by the report.

Sec. 61.107. ADMINISTRATIVE COSTS. Authorizes THECB to use a reasonable amount, not to exceed five percent, of any general revenue appropriated for purposes of this subchapter to pay the costs of administering this subchapter, unless otherwise provided by the appropriation.

SECTION 6.02. (a) Requires THECB to adopt rules for the implementation and administration of the border institution grant program established under Subchapter D-1, Chapter 61, Education Code, as added by this Act, as soon as practicable after the effective date of this Act.

(b) Requires THECB to establish the border institution grant program required by Subchapter D-1, Chapter 61, Education Code, as added by this Act, not later than September 1, 2024, and to begin to award grants under the program as soon as practicable after the program is established.

ARTICLE 7. ECONOMIC DEVELOPMENT INITIATIVE

SECTION 7.01. Amends Chapter 481, Government Code, by adding Subchapter Q, as follows:

SUBCHAPTER Q. BORDER PROTECTION ECONOMIC DEVELOPMENT INITIATIVE

Sec. 481.241. DEFINITION. Defines "border region."

Sec. 481.242. CAMPAIGN FOR BUSINESSES AND TOURISM. (a) Requires the Texas Economic Development and Tourism Office (office), in consultation with stakeholders in the border region, to develop and execute a campaign to:

(1) attract domestic and foreign entities to:

(A) locate the headquarters of those entities in the border region;
or

(B) expand the entities' operations to the border region;

(2) support and promote tourism in the border region; and

(3) support institutions and initiatives in the border region that create an environment conducive to starting or operating a company whose primary business is providing homeland security technology or services.

(b) Authorizes the office to coordinate with and assist any municipality, county, or other political subdivision in supporting or promoting the purposes described by Subsection (a).

Sec. 481.243. TARGETED RESEARCH AND OUTREACH; SUPPORTIVE PROGRAMS. (a) Requires the office, in developing and executing the campaign described by Section 481.242, to identify and research particular companies and types of companies with a high potential of commercial success if the companies were to operate in the border region.

(b) Requires the office, for each company identified under Subsection (a), to develop and execute a campaign to attract the company to locate its headquarters or expand operations into the border region.

(c) Requires the office, for a type of company identified under Subsection (a), to create programs for supporting the formation of new companies in the border region of that type, excluding direct financial incentives to the company.

Sec. 481.244. GIFTS, GRANTS, AND DONATIONS. Requires the office, in addition to funds appropriated, credited, or transferred by the legislature for the purposes of this subchapter, to:

(1) seek and apply for any available federal funds; and

(2) solicit and accept gifts, grants, and donations from any other source, public or private, as necessary to ensure effective implementation of this subchapter.

Sec. 481.245. ANNUAL REPORT. Requires the office to report to the legislature on the activities of the office under this subchapter, not later than December 31 of each year.

Sec. 481.246. ADMINISTRATIVE COSTS. Authorizes the office to use a reasonable amount, not to exceed five percent, of any general revenue appropriated for the purposes of this subchapter to administer this subchapter, unless otherwise provided by the appropriation.

ARTICLE 8. BORDER PROTECTION PROGRAM OF DEPARTMENT OF PUBLIC SAFETY

SECTION 8.01. Amends Article 2.12, Code of Criminal Procedure, as follows:

Art. 2.12. WHO ARE PEACE OFFICERS. Provides that the following are peace officers:

(1)-(3) makes no changes to these subdivisions;

(4) rangers, officers, and members of the reserve officer corps commissioned by:

(A) creates this paragraph from existing text and makes nonsubstantive changes; and

(B) either:

(i) creates this subparagraph from existing text; or

(ii) the unit chief of the Border Protection Unit (unit); and

(5)-(34) makes no changes to these subdivisions.

SECTION 8.02. Amends Section 411.002(a), Government Code, as follows:

(a) Provides that the Department of Public Safety of the State of Texas (DPS) is an agency of the state to enforce the laws protecting the public safety, provide for the prevention and detection of crime, and defend and secure the state's air, maritime, and land borders. Provides that DPS is composed of the Texas Rangers, the Texas Highway Patrol, the unit, the administrative division, and other divisions that the Public Safety Commission (commission) considers necessary. Makes nonsubstantive changes.

SECTION 8.03. Amends Section 411.004, Government Code, as follows:

Sec. 411.004. DUTIES AND POWERS OF COMMISSION. Requires the commission to:

(1) formulate plans and polices for:

(A)-(B) makes no changes to these paragraphs;

(C)-(D) makes nonsubstantive changes to these paragraphs;

(E) defense and security of this state's air, maritime, and land borders; and

(2)-(5) makes no changes to these subdivisions.

SECTION 8.04. Amends Section 411.006(a), Government Code, as follows:

(a) Requires the public safety director of DPS (director), subject to Section 411.556, to:

(1) be directly responsible to the commission for the conduct of and act as executive director of the Texas Highway Patrol, the Texas Rangers, and other administrative divisions and departments assigned by the commission, other than the unit;

(2) act with the commission in an advisory capacity without vote; and

(3)-(7) makes nonsubstantive changes to these subdivisions.

Deletes existing text requiring the director, subject to Subsection 411.556 to be directly responsible to the commission for the conduct of the DPS's affairs and act as executive director of DPS.

SECTION 8.05. Amends Section 411.007(a), Government Code, to authorize the director, subject to the provisions of Chapter 411 (Department of Public Safety of the State of Texas), to appoint, promote, reduce, suspend, or discharge any officer or employee of DPS, other than an officer or employee of the unit.

SECTION 8.06. Amends Section 411.017(a), Government Code, as follows:

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

(1)-(2) makes no changes to these subdivisions; or

(3) uses the term "Texas Department of Public Safety," "Department of Public Safety," "Texas Ranger," "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 DPS.

SECTION 8.07. Amends Chapter 411, Government Code, by adding Subchapter S, as follows:

SUBCHAPTER S. BORDER PROTECTION UNIT

Sec. 411.551. DEFINITIONS. Defines "border region," "unit," and "unit chief."

Sec. 411.552. BORDER PROTECTION UNIT; TERM OF AUTHORIZATION. (a) Provides that the unit is a division under the commission consisting of the number of commissioned officers and other employees authorized by the legislature.

(b) Provides that the unit is subject to appropriations by the legislature and, unless continued in existence by the legislature, is abolished December 31, 2030.

(c) Provides that this subchapter expires December 31, 2030.

Sec. 411.553. LIMITATION ON CERTAIN POWERS. Authorizes the unit and DPS, as applicable, to provide law enforcement services as authorized by this subchapter, including Sections 411.0095 (Vehicle Theft Checkpoints at Border Crossing), 411.560(b), and 411.563, in a county in the border region only to the extent authorized in writing by the commissioners court of that county.

Sec. 411.554. HEADQUARTERS. Requires the unit to be headquartered in the border region.

Sec. 411.555. UNIT CHIEF. (a) Requires the governor to appoint a United States citizen to serve as the unit chief of the unit. Provides that the unit chief serves until removed by the governor.

(b) Authorizes the unit chief to appoint, with the advice and consent of the commission, deputy unit chiefs and assistant unit chiefs who are required to perform the duties that the unit chief designates. Provides that deputy unit chiefs and assistant unit chiefs serve until removed by the unit chief.

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

Sec. 411.556. GENERAL POWERS AND DUTIES OF UNIT AND UNIT CHIEF. (a) Requires the unit chief to:

(1) be directly responsible to the commission for all conduct of the unit, but is authorized to be removed only by the governor under Section 411.555;

(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 and general administration of the unit, including rules governing the procurement of facilities and equipment for the unit and the training and working conditions for unit personnel;

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

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

(7) employ as necessary commissioned officers and other employees to perform unit operations and functions;

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

(9) prepare, swear to, submit to the governor, and file in the unit'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) Requires the unit chief or unit chief's designee to provide to members of the commission and to employees of the unit, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable law relating to standards of conduct for state officers or employees.

(c) Provides that certain provisions, subject to Subsection (d), apply to the unit chief with respect to the unit in the same manner as the provisions apply to the director with respect to DPS or, as applicable, apply to the unit when acting at the direction of the unit chief in the same manner as the provisions apply to DPS when acting at the direction of the director.

(d) Prohibits the director from exercising any operational or administrative control over the unit chief or the unit. Prohibits the unit chief from exercising any operational or administrative control over the director or DPS, other than the unit.

(e) Provides that the unit is a criminal justice agency for purposes of this chapter.

(f) Provides that the unit is a law enforcement agency for purposes of Section 411.1471(b) (relating to requiring a law enforcement agency arresting a defendant to require the defendant to provide one or more of certain specimens for the purpose of creating a DNA record after fingerprinting).

(g) Authorizes the unit to assist local law enforcement with the investigation of crime.

Sec. 411.557. OFFICE OF AUDIT AND REVIEW FOR UNIT. Requires the governor to establish the office of audit and review within the unit and appoint the director of the office to perform the duties under Subchapter I (General Oversight) with respect to the unit. Requires the director of the office of audit and review of the unit to serve until removed by the governor.

Sec. 411.558. INSPECTOR GENERAL FOR UNIT. (a) Requires the governor to establish the office of the inspector general within the unit and appoint the inspector general of the unit who is required to perform with respect to the unit the duties of Subchapter I-1 (Office of the Inspector General) or as may be provided by other law. Requires the inspector general of the unit to serve until removed by the governor.

(b) Provides that the inspector general of the unit is responsible for:

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

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

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

(A) conduct described by Subdivision (2);

(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.

Sec. 411.559. OFFICERS; OTHER EMPLOYEES. (a) Authorizes the unit chief to employ commissioned officers meeting the qualifications described by Section 411.561 to perform the duties of the unit. Provides that those officers are entitled to compensation as provided by the legislature and are required to be recruited and trained within the border region to the extent practicable.

(b) Authorizes the unit chief to employ individuals who are not officers as necessary to carry out the duties of the unit.

(c) Authorizes the unit chief to appoint, promote, reduce, suspend, or discharge any officer or employee of the unit, subject to the provisions of this chapter.

Sec. 411.5591. USE OF PERSONAL VEHICLE PROHIBITED. Prohibits an officer or other employee of the unit from using the officer's or employee's personal vehicle to conduct a traffic stop for any purpose related to the officer's or employee's duties, notwithstanding any other provision of this subchapter.

Sec. 411.560. AUTHORITY OF OFFICERS. (a) Provides that a commissioned 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 is authorized to make arrests and execute processes in a criminal case in any county in the border region.

(b) Authorizes a commissioned officer of the unit, to the extent consistent with the United States and Texas Constitutions, to arrest, apprehend, or detain persons crossing the Texas-Mexico border unlawfully, and deter persons attempting to cross the border unlawfully, including with the use of non-deadly crowd control measures.

Sec. 411.561. QUALIFICATIONS. (a) Provides that to be a commissioned officer of the unit, a person is required to hold a peace officer license issued under Chapter 1701 (Law Enforcement Officers), Occupations Code, and meet any other qualifications set by the commission.

(a-1) Prohibits the unit chief from employing an officer or other employee if the officer or other employee:

(1) has been convicted of a violent offense; or

(2) has been dishonorably discharged from the armed forces of the United States or the Texas military forces as shown by the service member's release or discharge documentation.

(a-2) Defines "Texas military forces" and "violent offense."

(b) Provides that the unit is an equal employment opportunity employer and is prohibited from discriminating against or giving preferential treatment to any employee or job applicant on account of the individual's race, color, sex, national origin, or religion.

Sec. 411.562. FACILITIES AND EQUIPMENT; TRAINING. Requires the unit to acquire equipment and facilities and conduct training necessary to fulfill the operational, intelligence, communication, logistics, and administrative duties provided by this chapter and the unit chief.

Sec. 411.563. LAW ENFORCEMENT BORDER PROTECTION FUNCTIONS. Authorizes the unit chief and director to order commissioned officers under their authority to take, and authorizes the commissioned officers to take, the following actions to the extent consistent with the United States and Texas Constitutions:

- (1) deter and repel persons attempting to enter this state unlawfully at locations other than ports of entry;
- (2) return aliens to Mexico who:
 - (A) have been observed actually crossing the Texas-Mexico border unlawfully; and
 - (B) were apprehended, detained, or arrested in the vicinity of the Texas-Mexico border; and
- (3) enhance the examination of aircraft, ships, vehicles, railcars, and cargo at or near ports of entry for the purposes of interdicting fentanyl and other dangerous drugs and interdicting human smuggling.

Sec. 411.564. OPERATIONAL PLAN TO COORDINATE BORDER SECURITY. (a) Requires the unit to develop and recommend to the governor and report to the legislature a strategic plan that establishes the framework for the budget and operations of the unit, including homeland security strategies and the assistance of other state and local entities. Requires the unit to annually report to the governor and the legislature on the implementation of the strategic plan.

- (b) Requires the unit to include in the strategic plan goals, objectives, and performance measures that involve collaboration with other state agencies and local entities.
- (c) Requires the unit to create plans and conduct operations consistent with the strategic plan.

SECTION 8.08. Requires the governor to appoint the unit chief as prescribed by Section 411.555, Government Code, as added by this Act, as soon as practicable after the effective date of this Act.

ARTICLE 9. SEVERABILITY

SECTION 9.01. (a) Severability clause.

- (b) Provides that Subsection (a) of this section does not affect another severability provision contained in this Act.

ARTICLE 10. EFFECTIVE DATE

SECTION 10.01. Effective date: upon passage or September 1, 2023.