

GOVERNMENT CODE
TITLE 4. EXECUTIVE BRANCH
SUBTITLE C. STATE MILITARY FORCES AND VETERANS
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) "Director of state administration" means the administrative head of the department who is responsible for managing the department.

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

(8) "Service member" means a member or former member of the state military forces or a component of the United States armed forces, including a reserve component.

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

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

(11) "State training and other duty" means the service and training typically performed by service members in preparation

for state active duty. The term includes training for man-made and natural disaster response and maintenance of equipment and property.

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

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

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

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

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

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

(18) "Unit fund" means:

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

(B) the state post exchange services account; or

(C) the billeting account.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 224 (H.B. 1326), Sec. 1, eff. September 1, 2019.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec.

1.01, eff. September 1, 2013.

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

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

(c) The governor shall appoint, commission, and assign the Texas State Guard general officers. The governor may remove or reassign an officer. To be eligible for appointment as a general

officer, a service member must have:

(1) been a federally recognized officer of not less than field grade of the Texas National Guard or a regular or reserve component of the United States military or served at least 15 years of combined service as a commissioned officer in the Texas military forces or a regular or reserve component of the United States military; and

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

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

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.006. OFFICERS. (a) The governor shall appoint and commission officers of the Texas National Guard. To be eligible for appointment, a service member must be qualified under United States law and regulations.

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.007. ENLISTMENT AND APPOINTMENT. (a) Federal law prescribes the terms and the qualifications and requirements for enlistment and appointment in the Texas National Guard. The

governor and legislature may prescribe additional terms, qualifications, and requirements that do not conflict with federal law.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.008. MILITARY FACILITIES PROJECTS: MATCHING FEDERAL FUNDS. If the governor, after consulting with the adjutant general, determines that the state is eligible for federal matching funds for projects at military facilities in this state, the governor may direct that money appropriated for another purpose be used to obtain the federal matching funds if the appropriation authorizes the money to be used for that purpose.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

SUBCHAPTER B. TEXAS MILITARY DEPARTMENT

Sec. 437.051. SUNSET PROVISION. The department is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 2031.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 224 (H.B. 1326), Sec. 2, eff. September 1, 2019.

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

(b) The adjutant general shall adopt and implement regulations or policies that clearly separate the adjutant

general's responsibilities from the administrative responsibilities of the department's director of state administration and staff.

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

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

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

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 224 (H.B. 1326), Sec. 3, eff. September 1, 2019.

Sec. 437.053. ADJUTANT GENERAL: DUTIES. The adjutant general shall:

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

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

(3) assume responsibility for all administration of the department, including ensuring compliance with applicable

state law and priorities and overseeing state employees;

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

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

(6) publish at state expense, when necessary, state military law and regulations;

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

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

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

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

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. [1536](#)), Sec. 1.01, eff. September 1, 2013.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 224 (H.B. [1326](#)), Sec. 4, eff. September 1, 2019.

Sec. 437.0531. EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT. The adjutant general shall adopt a written policy

statement to implement a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

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

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.056. MANDATORY TRAINING FOR ADJUTANT GENERAL.

(a) Before the adjutant general may assume the duties of the office and before the adjutant general may be confirmed by the senate, the adjutant general must complete at least one course of the training program established under this section.

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

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

(10) the requirements and development of the Master Cooperative Agreements between this state and the federal government.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

(b) A deputy adjutant general shall assist the adjutant general by performing assigned duties. If the adjutant general is dead, absent, or unable to act, the deputy adjutant general who is designated in the adjutant general's succession plan shall perform the duties of the adjutant general.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.058. GENERAL OFFICERS. (a) The adjutant general may appoint as general officers one or more assistant deputy adjutants general for army, an assistant deputy adjutant general for air, an assistant adjutant general for homeland security, and an assistant adjutant general for domestic operations.

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

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

(d) The assistant deputy adjutants general for army shall support the deputy adjutant general for army, represent the command

staff at events as needed, and manage the activities assigned by the adjutant general or the deputy adjutant general for army.

(d-1) The assistant deputy adjutant general for air shall support the deputy adjutant general for air, represent the command staff at events as needed, and manage the activities assigned by the adjutant general or the deputy adjutant general for air.

(e) The assistant adjutant general for homeland security, as determined by the adjutant general, shall:

(1) coordinate with other state agencies in matters pertaining to homeland security; and

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

(f) The assistant adjutant general for domestic operations shall:

(1) coordinate activities of the Texas military forces with the National Guard Bureau to ensure state emergency services are provided and organized to support the state operations center; and

(2) coordinate with other federal, state, and local jurisdictions and officials.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. [1536](#)), Sec. 1.01, eff. September 1, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 383 (S.B. [102](#)), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 831 (H.B. [1905](#)), Sec. 1, eff. September 1, 2017.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.060. CONFLICT OF INTEREST PROVISIONS. (a) A person may not be appointed adjutant general, a deputy adjutant general, a general officer, judge advocate general, or director of state administration if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the department.

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 224 (H.B. 1326), Sec. 5, eff. September 1, 2019.

Sec. 437.061. REMOVAL PROVISIONS FOR ADJUTANT GENERAL.

(a) It is a ground for removal that the adjutant general:

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

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

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

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

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 224 (H.B. 1326), Sec. 6, eff. September 1, 2019.

Sec. 437.063. ADJUTANT GENERAL: DELEGATION OF EXPENDITURE APPROVAL AUTHORITY. The adjutant general may delegate the authority to approve department expenditures to the director of state administration.

Added by Acts 2017, 85th Leg., R.S., Ch. 260 (H.B. 1630), Sec. 1, eff. September 1, 2017.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 224 (H.B. 1326), Sec. 7, eff. September 1, 2019.

SUBCHAPTER C. TEXAS MILITARY DEPARTMENT OPERATIONS

Sec. 437.101. DIRECTOR OF STATE ADMINISTRATION. (a) The director of state administration is a senior-level employee of the department and is appointed by and serves at the pleasure of the adjutant general.

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

(c) The director of state administration is responsible for the daily administration of the department's state support operations and the operational compliance with the cooperative agreements between the department and the National Guard Bureau.

(d) The adjutant general shall adopt and implement a policy outlining the director of state administration's responsibility for state administrative interests across all department programs, including evaluating procedures for oversight of state employees and mitigating administrative and other compliance risks.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 224 (H.B. 1326), Sec. 8, eff. September 1, 2019.

Sec. 437.102. DEPARTMENT PERSONNEL. (a) The director of state administration may hire employees as necessary to carry on the state support operations of the department.

(b) The director of state administration or the director of state administration's designee shall provide to the adjutant general and to department 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.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 224 (H.B. 1326), Sec. 9, eff. September 1, 2019.

Sec. 437.103. STATE GUARD ADMINISTRATIVE PERSONNEL.

(a) Except as provided by Subsection (b), to be eligible to hold a position relating to the daily operations and coordination of the Texas State Guard, an employee must maintain membership in the Texas State Guard.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

(b) The director of state administration shall develop a system of employee performance evaluations. The system must require that evaluations be conducted at least annually. All merit pay for department employees must be based on the system established under this subsection.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 224 (H.B. 1326), Sec. 10, eff. September 1, 2019.

Sec. 437.105. AUTHORITY TO MAKE DIFFERENTIAL PAYMENTS. The department may pay an employee additional compensation for duty

hours other than Monday through Friday normal business hours or for the ability to legally carry weapons if required for the position. The department shall adopt regulations to establish the classification, procedures, and amount of the additional compensation. The department may make differential payments only if money is available to pay those amounts.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.106. HISTORICAL PRESERVATION OF RECORDS AND PROPERTY. Except as provided by other law and in accordance with all applicable federal and state requirements, the department shall preserve all historically significant military records or property in the Texas Military Forces Museum.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

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

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

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

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

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

(5) a statement of department plans to obtain and maintain future Texas National Guard missions, including proposed missions that are consistent with the United States Department of

Defense's strategies.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.108. TECHNOLOGY POLICY. The department shall develop and implement a policy requiring the director of state administration and department's employees to research and propose appropriate technological solutions to improve the department's ability to perform its functions. The technological solutions must:

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

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

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 224 (H.B. 1326), Sec. 11, eff. September 1, 2019.

Sec. 437.109. EXEMPTION FROM CERTAIN STATE ACTIVITIES.

(a) The department is exempt from the provisions of Chapter 2054 relating to the oversight of information resources and information resource manager provisions to the extent the National Guard Bureau and the United States Department of Defense provide information technology and communications support to the department.

(b) Notwithstanding any other law, a service member

considered to be a temporary state employee is not considered to be an employee of the department for the purpose of counting the number of full-time equivalent positions authorized for the department in the General Appropriations Act.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.110. POST EXCHANGES ON STATE MILITARY PROPERTY.

Text of subsection effective until September 01, 2021

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

Text of subsection effective on September 01, 2021

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

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

(c) The department shall contract with a person to operate a

post exchange created under this section.

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

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

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

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

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

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

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

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 390, eff. September 1, 2021.

Sec. 437.111. DONATIONS. (a) Except as provided by Subsections (d) and (e), all money paid to the department under this

chapter is subject to Subchapter F, Chapter [404](#).

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

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

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. [1536](#)), Sec. 1.01, eff. September 1, 2013.

Sec. 437.112. INFORMATION OF INTEREST; COMPLAINTS.

(a) The department shall prepare information of public interest describing the functions of the department and the procedures by which complaints are filed with and resolved by the department. The department shall make the information available to the public and appropriate state agencies.

(b) The adjutant general shall adopt policies to establish methods for notifying the public and members of the Texas National Guard of the department's name, mailing address, and telephone number for the purpose of directing complaints to the department.

(c) The department shall maintain a file on each written

complaint filed with the department. The file must include:

- (1) the name of the person who filed the complaint;
- (2) the date the complaint is received by the department;
- (3) the subject matter of the complaint;
- (4) the name of each person contacted in connection with the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and
- (6) an explanation of the reason the file was closed, if the department closed the file without taking action other than to investigate the complaint.

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.113. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

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

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

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

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

services.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.117. TEXAS CHALLENGE ACADEMY. (a) For each student enrolled in the Texas Challenge Academy, the department is entitled to allotments from the Foundation School Program under Chapter 48, Education Code, as if the academy were a school district without a tier one local share for purposes of Section 48.266, Education Code.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 3.077, eff. September 1, 2019.

Sec. 437.118. MAINTENANCE AND OPERATION OF MILITARY HOUSING. The department shall maintain and operate charged military housing in accordance with policies and regulations adopted by the adjutant general and published on the department's Internet website. The department shall deposit room fees in a billeting account.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 144 (H.B. 1606), Sec. 1, eff. September 1, 2017.

Sec. 437.119. USE OF FUNDS TO PURCHASE FOOD AND BEVERAGES. The department may use appropriated money to purchase

food and beverages for:

- (1) charged military housing;
- (2) service members of the Texas military forces on military duty, including required training functions; and
- (3) students participating in the Texas Challenge Academy.

Added by Acts 2017, 85th Leg., R.S., Ch. 144 (H.B. 1606), Sec. 1, eff. September 1, 2017.

SUBCHAPTER D. REAL PROPERTY MANAGEMENT

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

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

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

(c) The adjutant general shall adopt regulations specifying the requirements, term limits, and expectations for the advisory council.

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

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

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

- (1) the facility master plan;

- (2) the long-range construction plan;
- (3) the selection of architecture and engineering firms;
- (4) requests for bonding authority for state military facilities;
- (5) the disposal or sale of department property;
- (6) surface leases of department property;
- (7) natural resources management plans; and
- (8) environmental studies and agreements.

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

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

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

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

(i) The advisory council is not subject to Chapter 2110. Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 224 (H.B. 1326), Sec. 12, eff. September 1, 2019.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

(a) The department may borrow money in the amount and under circumstances allowed by the Texas Constitution and may request the Texas Public Finance Authority, on behalf of the department, to issue and sell fully negotiable bonds to acquire, construct, remodel, repair, or equip one or more facilities.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

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

- (1) the governor;
- (2) the presiding officer of each house of the legislature;
- (3) the Legislative Budget Board; and
- (4) the governor's budget office.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

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

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

(c) The department may:

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

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

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

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

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

(f) The department shall deposit proceeds from any land lease or other revenue under this section, other than daily fee deposits that qualify as unit funds, into the state treasury to the credit of the department for the use and benefit of the facilities of the Texas military forces. If any part of these funds remains unexpended and unobligated at the end of the state fiscal year, that amount is dedicated for the same purposes in the subsequent year. Money in the fund may not be diverted for any other purpose. Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. [1536](#)), Sec.

1.01, eff. September 1, 2013.

Sec. 437.156. CONSTRUCTION; FURNISHING AND EQUIPMENT.

(a) The department may construct buildings on real property held by the department in fee simple or otherwise. The department may furnish and equip the buildings.

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.162. FACILITY ACCESSIBILITY. The department for new facility construction shall comply with federal and state laws related to facility accessibility.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

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

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

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

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

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

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

(g) The department may:

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. [1536](#)), Sec. 1.01, eff. September 1, 2013.

SUBCHAPTER E. TEXAS MILITARY FORCES

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.202. LEAVE OF ABSENCE FOR PUBLIC OFFICERS AND EMPLOYEES. (a) Except as provided by Subsections (b) and (c), a person who is an officer or employee of this state, a municipality, a county, or another political subdivision of this state and who is a member of the Texas military forces, a reserve component of the armed forces, or a member of a state or federally authorized urban search and rescue team is entitled to a paid leave of absence from the person's duties on a day on which the person is engaged in authorized training or duty ordered or authorized by proper authority for not more than 15 workdays in a fiscal year. During a leave of absence, the person may not be subjected to loss of time, efficiency rating, personal time, sick leave, or vacation time.

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

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

(d) An employee of this state or a municipality, a county, or another political subdivision of this state with at least five full-time employees who is a member of the Texas military forces, a reserve component of the armed forces, or a member of a state or federally authorized urban search and rescue team and who is

ordered to duty by proper authority is entitled, when relieved from duty, to be restored to the position that the employee held when ordered to duty.

(e) This state, a municipality, a county, or another political subdivision of this state shall provide written notice of the number of workdays of paid leave to which an officer or employee described by Subsection (a) is entitled each fiscal year under Subsection (a) and, if applicable, the number of workdays of paid leave to which an officer or employee described by Subsection (a) is entitled to carry forward each fiscal year under Subsection (b):

(1) on employment, in the case of an employee; or

(2) as soon as practicable after appointment or election, in the case of an officer.

(f) This state, a municipality, a county, or another political subdivision of this state shall, on the request of an officer or employee described by Subsection (a), provide to that officer or employee a statement that contains:

(1) the number of workdays for which the officer or employee claimed paid leave under Subsection (a) in that fiscal year; and

(2) if the statement is provided to an officer or employee of this state:

(A) the net balance of unused accumulated leave under Subsection (a) for that fiscal year that the officer or employee is entitled to carry forward to the next fiscal year; and

(B) the net balance of all unused accumulated leave under this section to which the officer or employee is entitled.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 456 (H.B. 445), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 853 (H.B. 2486), Sec. 1, eff. June 15, 2017.

Sec. 437.203. DUAL OFFICE HOLDING. A position in or

membership in the Texas military forces is not considered to be a civil office of emolument.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.204. REEMPLOYMENT OF SERVICE MEMBER CALLED TO TRAINING OR DUTY. (a) An employer may not terminate the employment of an employee who is a member of the state military forces of this state or any other state because the employee is ordered to authorized training or duty by a proper authority. The employee is entitled to return to the same employment held when ordered to training or duty and may not be subjected to loss of time, efficiency rating, vacation time, or any benefit of employment during or because of the absence. The employee, as soon as practicable after release from duty, must give written or actual notice of intent to return to employment.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

(b) A person appointed, enlisted, or drafted in or who volunteers for the Texas military forces, other than the Texas National Guard, shall take and subscribe to the following oath:

"I, _____, do solemnly swear that I will bear true faith and allegiance to the State of Texas and to the United States of America, that I will serve this state and nation honestly and faithfully against all enemies, and that I will obey the orders of the governor of Texas and of the officers appointed over me, in accordance with the laws, rules, and articles governing the

military forces of the State of Texas."

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 534 (H.B. 1598), Sec. 1, eff. September 1, 2015.

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

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

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

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

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec.

1.01, eff. September 1, 2013.

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

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

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

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

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

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

(b) The officers of the unit are its directors. The senior officer is its president.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. [1536](#)), Sec. 1.01, eff. September 1, 2013.

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. [1536](#)), Sec. 1.01, eff. September 1, 2013.

Sec. 437.209. FOREIGN TROOPS. A military force from another state, territory, or district, except a force that is on federal orders and acting as a part of the United States armed forces, may not enter this state without the permission of the governor. The governor may delegate the powers granted by this section to the adjutant general.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.210. INTERFERENCE WITH TEXAS MILITARY FORCES.

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

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

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

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

(1) trespasses on a place of duty;

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

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

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

(A) on September 1 of each year; and

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

(b) The unit fund consists of:

(1) donations made to the fund;

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

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

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

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

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

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

(e) A service member compensated under this section is eligible for state workers' compensation coverage under Chapter [501](#), Labor Code.

(f) A member of the state military forces who is not a full-time or part-time state employee and who has been on state active duty or on state training or other duty for more than 60 days is, notwithstanding Section [1551.1055](#), Insurance Code, eligible to participate in the state group benefits program under Chapter [1551](#), Insurance Code, and is considered to be a full-time state employee for the purposes of that chapter, including the receipt of a full state contribution for insurance coverage, subject to Subsection (f-1) and the following requirements:

(1) the participant must be a member of the state military forces at the time of enrollment in the group benefits program; and

(2) an application under this subsection for insurance coverage must be submitted in accordance with procedures established by the Employees Retirement System of Texas.

(f-1) The department shall require payment of the cost associated with paying the state contribution of a member of the

state military forces who elects to participate in the state group benefits program under Subsection (f) by the person responsible for paying for the mission for which the member is on state active duty or state training and other duty. On receipt of payment, the department shall reimburse the board of trustees of the Employees Retirement System of Texas for that cost.

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

(1) the procedures that a member of the state military forces may use to elect to participate in the state group benefits program;

(2) an appropriate method to annually confirm continuing eligibility to participate in the group benefits program; and

(3) an appropriate method of administering the reimbursement of the state contribution as required by Subsection (f-1).

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

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

(j) Claims of discrimination by service members on state active duty shall be processed in accordance with military regulations and procedures established for the Texas military forces; and are exempt from the jurisdiction of the Texas Workforce civil rights division.

(k) A member of Texas Military Forces called to state active duty is subject to the regulations established for continued membership in the specific component including but not limited to medical readiness, drug testing, physical fitness and training requirements.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 340 (H.B. 577), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1059 (H.B. 2123), Sec. 1, eff. January 1, 2016.

Sec. 437.2121. EXTENDED STATE ACTIVE DUTY SERVICE FOR ADMINISTRATIVE SUPPORT. (a) The adjutant general may hire service members of the Texas military forces to fill state military positions with the department as authorized by the General Appropriations Act. A service member hired under this section is considered to be on extended state active duty service.

(b) A service member called to extended state active duty service under this section is entitled to the benefits and paid leave generally provided to state employees.

(c) The adjutant general shall establish and the department shall maintain the criteria for activating a service member under this section.

(d) A state military position may have a limited term with a defined end date or may be a continuing position without a defined end date.

(e) As soon as practicable before the end of each state fiscal year, the department shall notify each service member called to extended state active duty service under this section whether the department will continue the service member's state military position for the next state fiscal year.

Added by Acts 2015, 84th Leg., R.S., Ch. 1100 (H.B. 2965), Sec. 1, eff. June 19, 2015.

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

(1) performing service in the uniformed services as provided by 38 U.S.C. Sections 4301-4313 and 4316-4319; and

(2) in the military service of the United States as provided by 50 U.S.C. Sections 3901-3959, 3991, and 4011-4026.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 888 (H.B. 3066), Sec. 1, eff. June 15, 2017.

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

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

(1) the decedent's spouse;

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

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

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

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.215. GRAVE MARKERS FOR STATE MILITARY PERSONNEL.

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

(b) The grave marker may be requested from the department by a person described by Section [437.214\(b\)](#).

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. [1536](#)), Sec. 1.01, eff. September 1, 2013.

Sec. 437.216. SERVICE REFERRAL PROGRAM. (a) The Texas military forces shall develop a program to provide referrals to service members for reintegration services.

(b) The program shall:

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

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

(3) promote family cohesion and sustainability;

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

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

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

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

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

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

(c) The Texas military forces shall ensure that:

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

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

(d) In developing the referral program, the Texas military forces shall consult with the National Guard Bureau, the United States Veterans Health Administration, the Health and Human Services Commission, the Texas A&M Health Science Center College of Medicine, and The University of Texas Health Science Center at San Antonio.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

(1) fees for obtaining copies of:

(A) a birth certificate;

(B) a recorded marriage license;

(C) a divorce decree;

(D) a child support order;

(E) guardianship documents; and

(F) property tax records;

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

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

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

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

SEAL

Notary Public in and for
_____ County, Texas"

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.220. SUPPLEMENTAL DUTY PAY FOR ECONOMIC HARDSHIP.

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

(b) The comptroller shall establish the Texas National

Guard members' supplemental military duty pay account in the general revenue fund. Money in the account may be appropriated only for purposes of implementing this section. The comptroller, governor, or adjutant general may accept gifts and grants for deposit to the credit of the account. The legislature may transfer money into the account or may appropriate money to implement this section and the comptroller shall credit that money to the account.

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

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

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. [1536](#)), Sec. 1.01, eff. September 1, 2013.

Sec. 437.221. OTHER DUTY AND COMMUNITY SERVICE MISSIONS. The governor or the adjutant general, if designated by the governor, may require other duty for officers and enlisted

persons in the Texas military forces. The other duty may include community service missions.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

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

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

(1) the defendant applies for the removal; and

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.223. EXEMPTION FROM ARREST. (a) A member of the Texas military forces may not be arrested, except for treason, felony, or breach of the peace, while the person is going to or coming from a place that the person was required to be for military duty.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.2235. PUBLIC DUTY JUSTIFICATION. Section 9.21, Penal Code, applies to conduct of a service member of the Texas military forces ordered into service of this state by proper authority that is performed in the service member's official capacity.

Added by Acts 2015, 84th Leg., R.S., Ch. 200 (S.B. 850), Sec. 1, eff. May 28, 2015.

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

(b) On termination of the appointment of an officer or enlistment of an enlisted service member in the Texas military

forces, the officer or enlisted service member shall be given a certificate of discharge stating the character of the person's service.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

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

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

(A) an enlisted member;

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

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

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

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

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

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

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

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec.

1.01, eff. September 1, 2013.

Sec. 437.228. ISSUANCE AND USE OF UNIFORM AND OTHER MILITARY PROPERTY. (a) A service member to whom the department issues a uniform or other military property shall give a receipt for the uniform or property. The adjutant general shall prescribe the manner in which the uniform and property shall be accounted for and kept.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.229. UNIFORM. (a) Except as provided by Subsection (b), the uniform of the officers and enlisted service members of the Texas military forces is the uniform prescribed for the United States armed forces with modifications that the governor, or adjutant general if delegated the authority, considers necessary.

(b) The uniforms of the officers and enlisted personnel of the Texas State Guard are the uniforms prescribed for the United States armed forces with any modifications the governor, or the adjutant general if delegated the authority by the governor, considers necessary to distinguish the Texas State Guard from the Texas National Guard.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.230. EXEMPTION FROM LEVY AND SALE. Arms, equipment, clothing, and other military supplies issued by the department to units or service members of the Texas military forces for military purposes are exempt from levy and sale because of execution for debt or other legal proceedings.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec.

1.01, eff. September 1, 2013.

Sec. 437.231. SEIZURE. (a) On a finding by the adjutant general that a person unlawfully possesses, and refuses or fails to deliver up, arms, equipment, or other military property issued by the department for use of the Texas military forces, the governor may by warrant command the sheriff of the county in which the person resides or is located to seize the arms, equipment, or other military property and keep the property subject to the governor's further order. The sheriff in executing the warrant may invoke the power of the county.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.232. CONFIDENTIALITY OF MILITARY PERSONNEL INFORMATION. (a) In this section, "military personnel information" means a service member's name, home address, rank, official title, pay rate or grade, state active duty orders, deployment locations, military duty addresses, awards and decorations, length of military service, and medical records.

(b) A service member's military personnel information is confidential and not subject to disclosure under Chapter 552.

Added by Acts 2015, 84th Leg., R.S., Ch. 170 (H.B. 2152), Sec. 1, eff. September 1, 2015.

SUBCHAPTER F. TEXAS NATIONAL GUARD

Sec. 437.251. COMPOSITION. The Texas National Guard may not exceed half of one percent of the population of the state except in case of war, insurrection, or invasion, the prevention of invasion, the suppression of riot, or the aiding of civil

authorities to execute state law.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. [1536](#)), Sec. 1.01, eff. September 1, 2013.

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. [1536](#)), Sec. 1.01, eff. September 1, 2013.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. [1536](#)), Sec. 1.01, eff. September 1, 2013.

Sec. 437.254. EMPLOYEES IN TEXAS MILITARY FORCES; EMERGENCY LEAVE. (a) A state employee called to state active duty as a member of the Texas military forces by the governor or other appropriate authority in response to a natural or man-made disaster is entitled to receive paid emergency leave without loss of military leave under Section [437.202](#) or annual leave.

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

(c) The duty or training under Subsection (b) does not include duty or training carried out under Section [437.202](#).

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. [1536](#)), Sec.

1.01, eff. September 1, 2013.

Sec. 437.255. ASSISTING TEXAS STATE GUARD WITH CYBER OPERATIONS. To serve the state and safeguard the public from malicious cyber activity, the governor may command the Texas National Guard to assist the Texas State Guard with defending the state's cyber operations.

Added by Acts 2019, 86th Leg., R.S., Ch. 509 (S.B. 64), Sec. 3, eff. September 1, 2019.

SUBCHAPTER G. TEXAS STATE GUARD

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

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

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

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

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

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

(3) subject to Subsection (c), must be at least 18

years of age and not older than 70 years of age;

(4) must undergo a criminal history check;

(5) must not be a registered sex offender; and

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

(c) The adjutant general may adopt a policy regarding waiver of the maximum age requirement under Subsection (b)(3).

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

(1) a state agency or department;

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

(3) a special purpose district or authority.

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. [1536](#)), Sec. 1.01, eff. September 1, 2013.

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

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

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

(d) Military forces of another state may continue a fresh pursuit into this state in the same manner permitted the Texas State Guard under Subsection (c). The military forces of the other state shall without unnecessary delay surrender a person captured or arrested in this state to the military or police forces of this state to be dealt with according to law. This subsection does not prohibit an arrest in this state permitted by other law.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

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

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

(b) The governor may advance the service member one grade or rank at the time of the transfer into the honorary reserve. For a service member who is not a general officer, the adjutant general may advance the service member one grade or rank at the time of the transfer into the honorary reserve.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec.

1.01, eff. September 1, 2013.

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

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

(b) The fund consists of:

- (1) donations made to the fund;
- (2) revenue received by the Texas State Guard from the sale of uniforms and insignia to members of the guard; and
- (3) depository interest and investment income earned on money in the fund.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. [1536](#)), Sec. 1.01, eff. September 1, 2013.

SUBCHAPTER H. AWARDS

Sec. 437.351. TEXAS LEGISLATIVE MEDAL OF HONOR. (a) The Texas Legislative Medal of Honor shall be awarded to a member of the state or federal military forces designated by concurrent resolution of the legislature who voluntarily performs a deed of personal bravery or self-sacrifice involving risk of life that is so conspicuous as to clearly distinguish the service member for gallantry and intrepidity above the service member's comrades. Awarding of the medal shall be considered on the standard of extraordinary merit. The medal may be awarded only on incontestable proof of performance of the deed. To be eligible for the Texas Legislative Medal of Honor, a service member must:

- (1) have been born in this state;
- (2) reside in this state or have been a resident of this state on the service member's death; or

(3) have been a resident of this state when the service member entered military service.

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

(c) To receive the Texas Legislative Medal of Honor, a service member must be nominated during a regular session of the legislature by majority vote of all the members of a nominating committee consisting of:

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

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

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

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

(d) The legislature by concurrent resolution may direct the governor to award the Texas Legislative Medal of Honor to a service member nominated by the nominating committee. The committee chairs serving on the nominating committee shall jointly prepare a concurrent resolution directing the governor to award the medal to a service member nominated. The legislature may direct the medal to be awarded only during a regular session and may not, during a regular session, direct the medal to be awarded to more than:

(1) one service member for service in the state or federal military forces during the period beginning after 1835 but before 1956; and

(2) one service member for service in the state or federal military forces after 1955.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1092, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1020, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 311 (H.B. [1589](#)), Sec. 1, eff.

June 14, 2013.

Transferred, redesignated and amended from Government Code, Subchapter J, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.02, eff. September 1, 2013.

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

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Transferred, redesignated and amended from Government Code, Subchapter J, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.02, eff. September 1, 2013.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 85 (S.B. 1597), Sec. 1, eff. September 1, 2019.

Sec. 437.353. RECOMMENDATIONS. (a) A recommendation for award of the Texas Legislative Medal of Honor or Lone Star Medal of Valor shall be forwarded through military channels to the adjutant general. An individual having personal knowledge of an act or achievement or exceptional service believed to warrant the award of one of these medals may submit a letter of recommendation to the adjutant general.

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

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

(c) If the adjutant general determines that a case meets the criteria established by Section 437.352 for award of the Lone Star Medal of Valor, the adjutant general shall by endorsement recommend to the governor the awarding of the medal.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Transferred, redesignated and amended from Government Code, Subchapter J, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.02, eff. September 1, 2013.

Sec. 437.354. AWARDING. The governor awards the Texas Legislative Medal of Honor as directed by the legislature under Section 437.351. The governor awards the Lone Star Medal of Valor on recommendation of the adjutant general.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 1020, Sec. 2, eff. June 20, 2003.

Transferred, redesignated and amended from Government Code, Subchapter J, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.02, eff. September 1, 2013.

Sec. 437.355. OTHER AWARDS.

(a) The governor or adjutant general, if delegated the authority, may adopt policies and regulations relating to awarding:

(1) the Texas Purple Heart Medal, which shall be awarded to a service member who:

(A) after September 11, 2001:

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

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

(B) was wounded or killed at Fort Hood on November 5, 2009;

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

(A) a service member of the Texas military forces who has:

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

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

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

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

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

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

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

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

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

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

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

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

(A) on or after September 11, 2001;

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

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

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

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

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

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

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

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

(13) the Texas Iraqi Campaign Medal, which shall be awarded to a service member who was inducted into federal service from the Texas National Guard, without regard to the place that the

service member was deployed while serving on active federal military duty, after:

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

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

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

(15) the Cold War Medal, which, subject to Subsection (c), shall be awarded to a member of the military forces of this state or the United States who:

(A) served between September 2, 1945, and December 26, 1991; and

(B) was a resident of this state at the time the service member entered military service.

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

(c) A person described by Subsection (a)(15) may be awarded a Cold War Medal only if:

(1) a federal Cold War Medal or an equivalent federal medal is not available to be awarded; and

(2) a fee in the amount necessary to cover the costs of awarding the medal is paid to the adjutant general's department.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.02, eff. September 1, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 144 (H.B. 115), Sec. 1, eff. May 28, 2015.

Reenacted and amended by Acts 2015, 84th Leg., R.S., Ch. 760 (H.B. 2108), Sec. 1, eff. September 1, 2015.

Reenacted by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 8.007, eff. September 1, 2017.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 85 (S.B. 1597), Sec. 2, eff. September 1, 2019.

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

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Transferred, redesignated and amended from Government Code, Subchapter J, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.02, eff. September 1, 2013.

Sec. 437.357. DESIGN; RIBBONS. (a) The department shall design and have manufactured the medals, awards, decorations, and ribbons awarded under this subchapter and others that the adjutant general has approved for award.

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

(c) The adjutant general shall adopt regulations prescribing when a ribbon may be appropriately worn instead of the medal it symbolizes.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 68, Sec. 1, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 613, Sec. 5, eff. June 15, 1991.

Transferred, redesignated and amended from Government Code, Subchapter J, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.02, eff. September 1, 2013.

SUBCHAPTER I. ADMINISTRATIVE REVIEW AND JUDICIAL ENFORCEMENT

Sec. 437.401. DEFINITIONS. In this subchapter:

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

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

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.

Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.402. FILING OF COMPLAINT; FORM AND CONTENT; SERVICE. (a) A person claiming to be aggrieved by an unlawful employment practice under Section 437.204 or the person's agent may file a complaint with the commission.

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

(c) The complaint must state:

(1) that an unlawful employment practice under Section 437.204 has been committed;

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

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

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

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

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.

Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.403. ALTERNATIVE DISPUTE RESOLUTION. The use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, fact-finding, minitrials, and arbitration, is encouraged to resolve disputes arising under Section 437.204. The settlement of a disputed claim under this subchapter that results from the use of traditional or alternative means of dispute resolution is binding on the parties to the claim.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.

Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.404. INVESTIGATION BY COMMISSION. The commission shall investigate a complaint arising under Section 437.204 and determine if there is reasonable cause to believe that the respondent engaged in an unlawful employment practice as alleged in the complaint.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.

Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.405. LACK OF REASONABLE CAUSE; DISMISSAL OF COMPLAINT. (a) If, after investigation, the commission determines that reasonable cause does not exist to believe that the respondent engaged in an unlawful employment practice under Section 437.204 as alleged in a complaint, the commission shall issue a written determination incorporating the finding that the evidence does not support the complaint and dismissing the complaint.

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3,

eff. June 17, 2011.

Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.406. DETERMINATION OF REASONABLE CAUSE; REVIEW BY PANEL. If, after investigation, the commission determines that there is reasonable cause to believe that the respondent engaged in an unlawful employment practice under Section 437.204 as alleged in a complaint, the commission shall:

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

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.

Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.407. RESOLUTION BY INFORMAL METHODS. (a) If a determination of reasonable cause is made, the commission shall endeavor to eliminate the alleged unlawful employment practice arising under Section 437.204 by informal methods of conference, conciliation, and persuasion.

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.

Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.408. NOTICE OF DISMISSAL OR UNRESOLVED COMPLAINT. If the commission dismisses a complaint or does not resolve the complaint, the commission shall inform the complainant of the dismissal or failure to resolve the complaint in writing by certified mail.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.

Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.409. TEMPORARY INJUNCTIVE RELIEF. (a) If the commission concludes from a preliminary investigation of an unlawful employment practice arising under Section 437.204 alleged in a complaint that prompt judicial action is necessary, the commission shall file a petition seeking appropriate temporary relief against the respondent pending final determination of a proceeding under this subchapter.

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

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

(2) the respondent resides.

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

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

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.

Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.410. CIVIL ACTION BY COMMISSION. (a) The commission may bring a civil action against a respondent if:

(1) the commission determines that there is reasonable cause to believe that the respondent engaged in an unlawful employment practice under Section 437.204; and

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

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.

Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.411. NOTICE OF COMPLAINANT'S RIGHT TO FILE CIVIL ACTION. (a) A complainant who receives notice under Section 437.408 that the complaint is dismissed or not resolved is entitled to request from the commission a written notice of the complainant's right to file a civil action.

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

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

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.

Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.412. CIVIL ACTION BY COMPLAINANT. Within 60 days after the date a notice of the right to file a civil action is received, the complainant may bring a civil action against the

respondent.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.

Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.413. COMMISSION'S INTERVENTION IN CIVIL ACTION BY COMPLAINANT. After receipt of a timely application, a court may permit the commission to intervene in a civil action filed under Section 437.412 if:

(1) the commission certifies that the case is of general public importance; and

(2) before commencement of the action, the commission issued a determination of reasonable cause to believe that Section 437.204 was violated.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.

Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.414. ASSIGNMENT TO EARLY HEARING. The court shall set an action brought under this subchapter for hearing at the earliest practicable date to expedite the action.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.

Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.415. INJUNCTION; EQUITABLE RELIEF. (a) On finding that a respondent engaged in an unlawful employment practice under Section 437.204 as alleged in a complaint, a court may:

(1) prohibit by injunction the respondent from engaging in an unlawful employment practice under Section 437.204;

and

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

(b) Additional equitable relief may include:

- (1) hiring or reinstating with or without back pay;
- (2) upgrading an employee with or without pay; and
- (3) paying court costs.

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.

Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.416. COMPENSATORY AND PUNITIVE DAMAGES. (a) On finding that a respondent engaged in an intentional unlawful employment practice under Section 437.204 as alleged in a complaint, a court may, as provided by this section, award:

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

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

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

- (1) back pay;
- (2) interest on back pay; or
- (3) other relief authorized under Section 437.415(b).

(d) The sum of the amount of compensatory damages awarded under this section for future pecuniary losses, emotional pain,

suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses and the amount of punitive damages awarded under this section may not exceed, for each complainant:

(1) \$50,000 in the case of a respondent that has fewer than 101 employees;

(2) \$100,000 in the case of a respondent that has more than 100 and fewer than 201 employees;

(3) \$200,000 in the case of a respondent that has more than 200 and fewer than 501 employees; and

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

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.

Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.417. ATTORNEY'S FEES; COSTS. (a) In a proceeding under this subchapter, a court may allow the prevailing party, other than the commission, a reasonable attorney's fee as part of the costs.

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

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.

Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.418. COMPELLED COMPLIANCE. If an employer fails to comply with a court order issued under this subchapter, a party to the action or the commission, on the written request of a person aggrieved by the failure, may commence proceedings to compel compliance with the order.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.

Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.419. TRIAL DE NOVO. (a) A judicial proceeding under this subchapter is by trial de novo.

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.

Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.